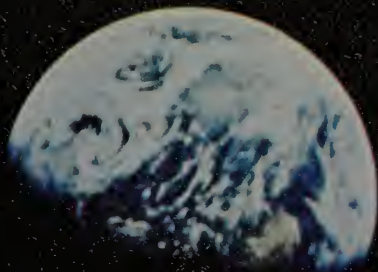


mcad

1972  
ANNUAL  
REPORT



Equality and Justice for all Mankind

... travel together on a little space ship ... we cannot main-  
tain ... half fortunate, half miserable ... half confident, half  
... half slave, half free ... No craft, no crew can  
... with such vast contradictions

ADLAI E. STEVENSON  
1955-1969

Where the mind is without fear and the head is held high;  
Where knowledge is free;  
Where the world has not been broken up into fragments by narrow  
domestic walls;  
Where words come out from the depth of truth;  
Where tireless striving stretches its arms towards perfection;  
Where the clear stream of reason has not lost its way into the dreary  
desert sand of dead habit;  
Where the mind is led forward by Thee into ever-widening thought  
and action —  
Into that heaven of freedom, my Father, let my country awake.

Rabindranath Tagore  
Bengali Poet

State Library of Massachusetts  
State House, Boston

THE COMMONWEALTH OF  
MASSACHUSETTS  
EXECUTIVE DEPARTMENT

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1972 Annual Report of the  
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

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**COMMISSION Members:**

**Glendora Putnam, Chairman**  
**David Burres**  
**Norman Holtz**  
**Douglas Scherer**

**Walter H. Nolan, Executive Secretary**  
**Leonard R. DePaola, General Counsel**

Copies of this ANNUAL REPORT may be obtained at MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION offices:

**120 Tremont Street**  
**BOSTON**

**222 Union Street**  
**NEW BEDFORD**

**145 State Street**  
**SPRINGFIELD**

**50 Franklin Street**  
**WORCESTER**



2017  
MAY 14  
1972  
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## TABLE OF CONTENTS

	Page
Chairman's Letter . . . . .	5
Public Information Officer's Letter . . . . .	7
✓ Field Operations Division . . . . .	9
Statistics: Housing Authority . . . . .	15
✓ Complaints Filed (Graph): 1966 thru 1972 . . . . .	25
✓ Complaints Filed: 1972 . . . . .	27
Public Hearings: Findings of Fact . . . . .	31
Administrative Division . . . . .	67
Affirmative Action Division . . . . .	69
✓ Community Relations Division . . . . .	71
Compliance Division . . . . .	75
Education Division . . . . .	79
Federal Grant Program: . . . . .	85
Housing and Urban Development (HUD)	
✓ Legal Division . . . . .	87
✓ Research Division . . . . .	89
✓ Legislative Scoreboard . . . . .	97
✓ Sex and Age Division . . . . .	99
Organization Chart . . . . .	103

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*The Commonwealth of Massachusetts*  
*Commission Against Discrimination*  
*120 Tremont Street, Boston 02108*

ADMINISTRATIVE SERVICES: 727-3990  
FIELD INVESTIGATIONS : 727-4145

31 December 1972

The Honorable Francis Sargent, Governor  
and  
The Honorable Members of the General Court  
Commonwealth of Massachusetts

Ladies and Gentlemen:

We end our 1972 program year with another case-load of over 1,000 complaints. This is the third successive year that this Commission has received over 900 complaints from the public.

The funding of our proposal from the Equal Employment Opportunity Commission came just in time. The funds and the methodology spelled out in our proposal permitted us to effect substantial reorganization and experimentation to deal with a heavy backlog and spiraling case-load. A major program to increase productivity and to effect more substantial relief for victims of discrimination was launched. We divided our investigative force into small units with supervision and support from attorneys versed in precedents set by the Federal Courts. The aim was to insure investigation relevant to discriminatory practices for which more effective remedies could be fashioned.

To deal with the mounting backlog, we set up a special Task Force whose responsibility was to process pre-1972 filed complaints. The results of the work of this Task Force proved what we have long known. To be effective, we must be current with our case-processing. Witnesses disappear, records are no longer available, respondents move and com-



plainants cannot be located, and the complainant's circumstances change. All these abort effective enforcement when complaints cannot be processed on a current basis.

To eliminate the many hours of field time, we set in motion the use of interrogatories for discharge complaints. The results of this procedure showed a saving in hours of investigation time and travel time. It is our intention to use interrogatories in other types of cases as well with, we hope, as much success.

We were fortunate to receive another grant from The United States Department of Housing and Urban Development to continue developing techniques in eliminating systemic discrimination in those institutions which impact on housing discrimination. This grant program also housed our special housing unit of investigators who integrated the techniques being explored by the program into their case-processing activity.

For the first time, this Commission processed more complaints than it received. The number received was 1,360; the number processed was 1,385.

To the staff which was willing to change, to experiment and to push ahead, we are grateful.

Very truly yours,  
/s/ Glendora M. Putnam  
Glendora M. Putnam  
Chairman .





*The Commonwealth of Massachusetts*  
*Commission Against Discrimination*  
*120 Tremont Street, Boston 02108*

ADMINISTRATIVE SERVICES: 727-3990  
FIELD INVESTIGATIONS : 727-4145

31 December 1972

To the Citizens  
Commonwealth of Massachusetts

Fellow Citizens:

It is the continuing responsibility of the Massachusetts Commission Against Discrimination to protect the rights of all the citizens of the Commonwealth (and others) by enforcing this state's anti-discrimination laws as enacted by the Legislature.

During 1970, the Commission processed 1,005 complaints of unlawful discrimination. In 1971, the number of complaints processed increased to 1,017 and in 1972 the number skyrocketed to 1,360.

The 1972 increase of cases processed was due, in part, to the enactment of additional laws by the State Legislature covering areas of discrimination previously unprotected. In addition, the public has become increasingly aware of its rights due to the tremendous support the press, radio and television have given to the public information programs developed by the Commission.

The Commission wishes to express publicly its deep gratitude to the communications media for the excellent public service they rendered by helping us get our message to the people of Massachusetts.

Our appreciation is also extended to State Artist, Andy Sweeney and the entire State Printing, Purchasing and Reproduction Departments for their invaluable artistry as well as their counsel and guidance during 1972.

Although the Commission continued to investigate complaints of discrimination vigorously during 1972, a "preventive" program was initiated. The Commission believes that in conjunction with informing our citizens of their rights, we also must inform the business, real estate and educational communities of their responsibilities under the law.

It is our hope that well-informed businessmen, landlords and school officials will abide by the decisions of the Legislature and conduct their affairs in such a way as to make the intervention of this Commission unnecessary.

Very truly yours,  
/s/ Morris Robinson  
Morris Robinson

Public Information Officer

## FIELD OPERATIONS DIVISION

The FIELD OPERATIONS Division operated during 1972 with CARROLL BROWNEE as Director and LUIS RODRIGUEZ as Assistant Director.

The MCAD's FIELD OPERATIONS Division is responsible to receive and investigate every complaint which is brought to the Commission alleging a violation of this Commonwealth's anti-discrimination laws (which cover housing, employment, school enrollment and public accommodations). In addition to the Director and Assistant Director, this division operates with a supporting staff of 21 investigators. Seven legal consultants serve as advisors to the Field staff. Complaints may be filed at either of the Commission's four offices; i.e., Boston, New Bedford, Springfield and Worcester.

Broadened legislation affecting the MCAD's jurisdiction contributed to the increase in the number of citizen-initiated complaints which were filed with the Commission during 1972. During this year, new legislation declared it unlawful to discriminate in housing against blind persons and persons with children. It also became unlawful to discriminate on the basis of sex in granting of mortgage loans or bonds. In addition, statutes were enacted prohibiting sex and age discrimination in vocational training institutions and in education beyond the bachelor degree. Due to this year's new and improved legislation dealing with unlawful discriminatory practices, coupled with statutory changes of the previous year which broadened the Commission's jurisdiction by prohibiting sex discrimination in places of public accommodation and in housing against persons because of their sex, age or status as a recipient of public assistance, the number of complaints filed with the MCAD during 1972 increased by 25% over 1971.

Of the 1,360 complaints filed during this year, 154 resulted from the newly-enacted areas of jurisdiction (accounting for approximately 15% of the overall increase in

caseload). This increase in workload and reduction in Field staff (investigators) imposed quite a hardship upon the Field Operations Division. Since the number of Field investigators did not increase during 1972, to meet the demands imposed by the increased caseloads, the Commission took steps to restructure its practices and efforts in order to direct all energies toward the most direct channels through which the division could realize the greatest potential from the existing (short) staff. The division did receive some relief through the Federally-funded Emergency Employment Act (EEA).

Prior to 1972, the entire Field staff (21 investigators when fully staffed) worked under the direct supervision of the division's Director and Assistant Director. With the ever-increasing number of complaints coming to the agency, it became impossible to continue this arrangement. Thus, the division's investigators were divided into four separate investigative units. Federal grant programs (the Equal Employment Opportunity Commission and the Housing and Urban Development agency) made it possible for the Commission to assign legal consultants as "first line" supervisory staff to direct the daily efforts of the field representatives.

In addition to reorganizing the division to maximize the existing staff potential, the Director and Assistant Director of the Field Operations Division attended several State and Federal training conferences in order to further develop improved administrative skills and, thus, increase the department's overall efficiency. Fruits of these education programs and staff reorganization were seen in an increased number of complaints closed by the agency by the end of the year and an increase in amount of financial awards made to complainants in settlement of cases where unlawful discrimination was found to exist.

In those cases where the Commission found probable cause for a complainant, there was substantial increase in the relief afforded the complainant — as compared with previous years. The compensatory damage and back-pay awards in some 40 complaints, collectively, amounted to nearly \$100,000, with 32 jobs and 21 housing units being obtained



for individual complainants, as a result of citizen-initiated complaints filed.

During 1972, the Commission closed out a total of 1,385 complaints. This was accomplished by a joint effort of the Field Operations staff and the "backlog" unit, an ad hoc committee which was formed to work exclusively on old cases.

The work of this "backlog" unit proves conclusively that the key to success in case-processing is to be current. When many months elapse between the time a complaint is filed and the investigation begins, witnesses disappear, complainants cannot be found and records are no longer available.

It is our firm belief that many of these "backlog" complaints might have ended with relief to the complainant if it had been possible to commence the investigation immediately. Of these 1,385 cases closed out, approximately 14% were given a PROBABLE CAUSE finding, or some other measure of relief for the complainant. Approximately 35% received a LACK OF PROBABLE CAUSE finding, or no relief to the complainant. Approximately 41% of these 1,385 cases were WITHDRAWN. Approximately 5% were closed out ADMINISTRATIVELY, and in approximately 4% of the 1,385 cases closed out, the Commission was unable to assert jurisdiction.

During 1972, the Field Operations Division continued its close cooperation with the various Federal agencies operating in the New England area. The Commission's Federal counterpart in the area of housing (i.e., the U.S. Department of Housing and Urban Development) deferred to the MCAD 15 complaints for investigation (under the provisions of Title VIII of the 1968 Civil Rights Act). Under Title VII of the 1964 Civil Rights Act, the U.S. Equal Employment Opportunity Commission deferred 361 complaints to the MCAD for investigation. In turn, the MCAD was obligated to inform all complainants, who filed originally with the State agency, of their rights to file with an appropriate Federal agency.

While formal deferral procedures are required for only two Federal agencies, the MCAD, through its Field Operations

Division, closely cooperates with numerous other agencies of the Federal government (such as HEW, the Department of Labor and the Justice Department).

The MCAD, being represented by its Field Operations Division heads, worked constantly with various training programs to increase the efficiency techniques employed by private industry, as well as attending various training courses sponsored by the Commonwealth's own Bureau of Personnel and Standardization.

The training programs were conducted in both English and Spanish — to ensure that ALL citizens of the Commonwealth are kept informed of their rights by law and of the Commission's responsibility to protect these rights for these citizens. Special attention was directed toward educating public and private employers and persons dealing in real estate of their obligations under the Statutes of the Commonwealth.

The MCAD, through efforts of its Field Operations Division, revised the chapter written in 1971 on the Commonwealth's guidelines for prospective real estate brokers and salesmen when preparing for State licensing examinations.

During 1972, the Field Operations expanded its annual survey of the minority occupancy of the Commonwealth's public housing projects to include all 197 of the State's housing authorities. Resulting statistical analysis of this survey is made a part of this report.

An EEOC report prepared during 1972 showed that as a result of investigations by MCAD in 1971 of systemic discriminatory hiring policies by ten companies, more than 1500 new job opportunities were made available to minorities and females. This resulted in thousands of dollars in wages finding their way into black homes and into the home of women who needed to supplement the family income.

During the year, MCAD received hundreds of inquiries by phone and by mail from persons seeking information about problems over which we had no jurisdiction. We referred



these inquiries to the proper agency for disposition. This is a time-consuming phase of our operation which does not show on any charts.



1972  
HOUSING STATISTICS  
BY AREA

	No. Units	No. Black families	Spanish Speaking families
<b>ARLINGTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	308	0	0
For All Other	176	1	0
<b>BARNSTABLE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	64	0	0
For All Other	12	0	0
<b>BOSTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	1,613	387	5
For All Other	9,944	4,117	704
Federal Program:			
For the Elderly	160	60	0
For All Other	3,647	828	115
<b>BROCKTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	230	2	0
For All Other	174	28	2
Federal Program:			
For the Elderly	640	9	1
For All Other	474	115	6

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>BROOKLINE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	60	0	0
For All Other	291	5	2
State Leased:			
For the Elderly	55	0	0
For All Other	27	1	1
Federal Program:			
For the Elderly	200	1	0
For All Other	100	0	0
Federal Leased:			
For the Elderly	93	1	0
For All Other	4	1	0

**CAMBRIDGE**  
*Housing Authority*

State Program:			
For the Elderly	0	0	0
For All Other	712	117	20
Federal Program:			
For the Elderly	248	32	0
For All Other	893	240	16

**CHELSEA**  
*Housing Authority*

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
State Program:			
For the Elderly	266	6	8
For All Other	294	0	1
Federal Program:			
For the Elderly	0	0	0
For All Other	200	6	8

CHICOPEE

*Housing Authority*

State Program:			
For the Elderly	478	0	0
For All Other	266	1	0
Federal Program:			
For the Elderly	136	0	0
For All Other	171	2	5

CLINTON

*Housing Authority*

State Program:			
For the Elderly	80	0	0
For All Other	34	1	1
Federal Program:			
For the Elderly	0	0	0
For All Other	100	8	7

EVERETT

*Housing Authority*

State Program:			
For the Elderly	280	6	3
For All Other	392	12	5

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>FALL RIVER</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	301	0	0
For All Other	427	0	0
Federal Program:			
For the Elderly	689	2	0
For All Other	2,094	44	1
<b>FALMOUTH</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	114	2	0
<b>FITCHBURG</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	104	0	0
For All Other	264	2	1
Federal Program:			
For the Elderly	100	0	0
For All Other	190	4	3
<b>FRAMINGHAM</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	345	3	0
For All Other	185	1	0



1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	0	0	0
For All Other	125	4	4

HOLYOKE

*Housing Authority*

State Program:			
For the Elderly	82	0	0
For All Other	219	12	11
Federal Program:			
For the Elderly	345	1	0
For All Other	684	84	66

LAWRENCE

*Housing Authority*

State Program:			
For the Elderly	0	0	0
For All Other	451	28	83
Federal Program:			
For the Elderly	514	0	0
For All Other	680	25	39

LOWELL

*Housing Authority*

State Program:			
For the Elderly	63	0	0
For All Other	373	25	32

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	364	0	0
For All Other	1,076	33	41

LYNN

*Housing Authority*

State Program:			
For the Elderly	212	7	0
For All Other	524	108	24

Federal Program:			
For the Elderly	276	15	0
For All Other	442	128	13

MALDEN

*Housing Authority*

State Program:			
For the Elderly	165	8	0
For All Other	267	7	2

Federal Program:			
For the Elderly	324	0	0
For All Other	315	28	4

MEDFORD

*Housing Authority*

State Program:			
For the Elderly	166	0	0
For All Other	316	6	0

Federal Program:			
For the Elderly	300	3	0
For All Other	450	7	1

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>NEW BEDFORD</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	75	1	0
For All Other	407	18	1
Federal Program:			
For the Elderly	150	3	0
For All Other	1,572	56	68
<b>PITTSFIELD</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	208	3	0
For All Other	126	0	1
Federal Program:			
For the Elderly	100	4	0
For All Other	203	44	0
<b>PLYMOUTH</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	110	0	0
For All Other	157	4	0
<b>REVERE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	245	0	0
For All Other	372	0	0

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	60	0	0
For All Other	150	0	1

SCITUATE

*Housing Authority*

State Program:			
For the Elderly	80	1	0

SOMERVILLE

*Housing Authority*

State Program:			
For the Elderly	274	3	2
For All Other	730	4	8
Federal Program:			
For the Elderly	142	2	6
For All Other	216	3	2

SPRINGFIELD

*Housing Authority*

State Program:			
For the Elderly	263	4	0
For All Other	532	271	8
Federal Program:			
For the Elderly	615	81	20
For All Other	653	294	177

TAUNTON

*Housing Authority*

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
State Program:			
For the Elderly	0	0	0
For All Other	142	21	6
Federal Program:			
For the Elderly	154	5	0
For All Other	107	29	16

WALTHAM

*Housing Authority*

State Program:			
For the Elderly	154	0	0
For All Other	304	1	5
Federal Program:			
For the Elderly	239	0	0
For All Other	61	1	10

WATERTOWN

*Housing Authority*

State Program:			
For the Elderly	204	0	0
For All Other	432	0	0

WEYMOUTH

*Housing Authority*

State Program:			
For the Elderly	156	1	0
For All Other	457	2	0

WINTHROP

*Housing Authority*

1972  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
State Program:			
For the Elderly	206	0	0
For All Other	279	0	0

WOBURN

*Housing Authority*

State Program:			
For the Elderly	194	7	0
For All Other	176	3	0
Federal Program:			
For the Elderly	0	0	0
For All Other	100	2	3

WORCESTER

*Housing Authority*

State Program:			
For the Elderly	75	0	0
For All Other	594	25	27
Federal Program:			
For the Elderly	1,051	12	0
For All Other	755	34	10

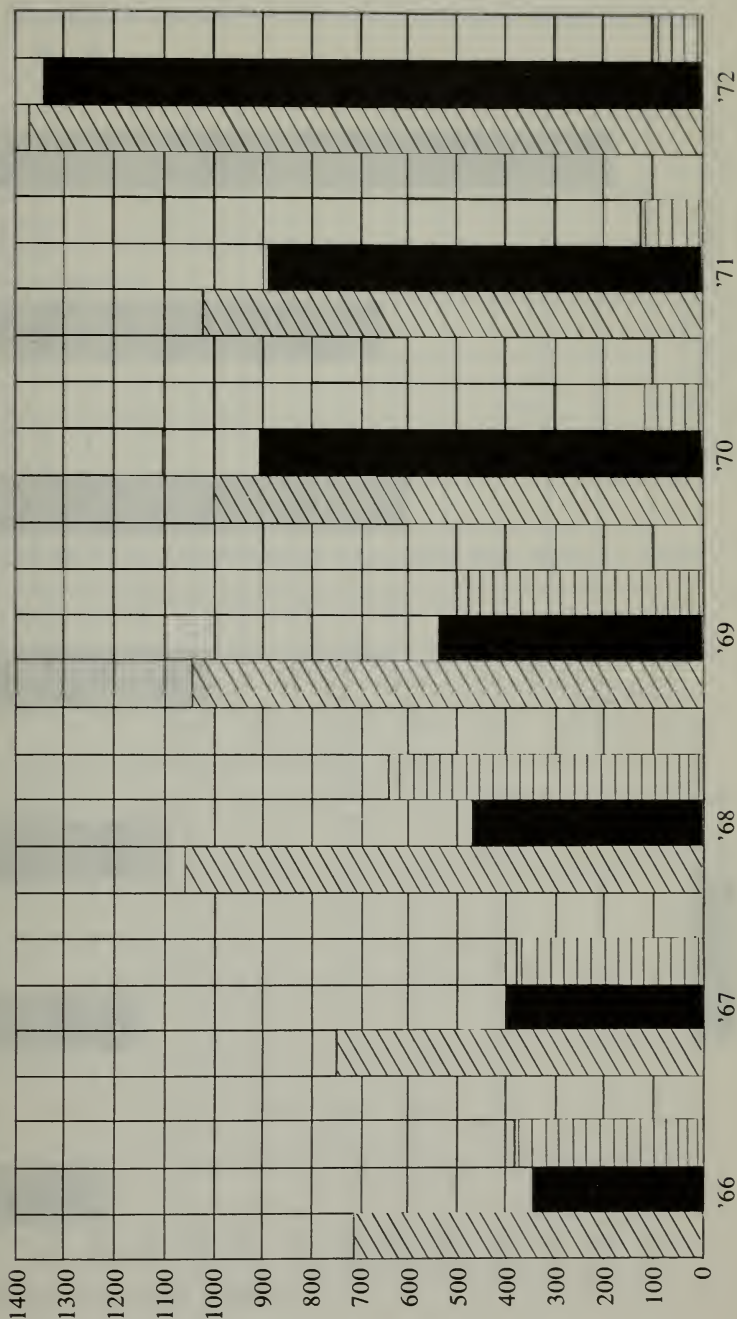


# COMPLAINTS FILED

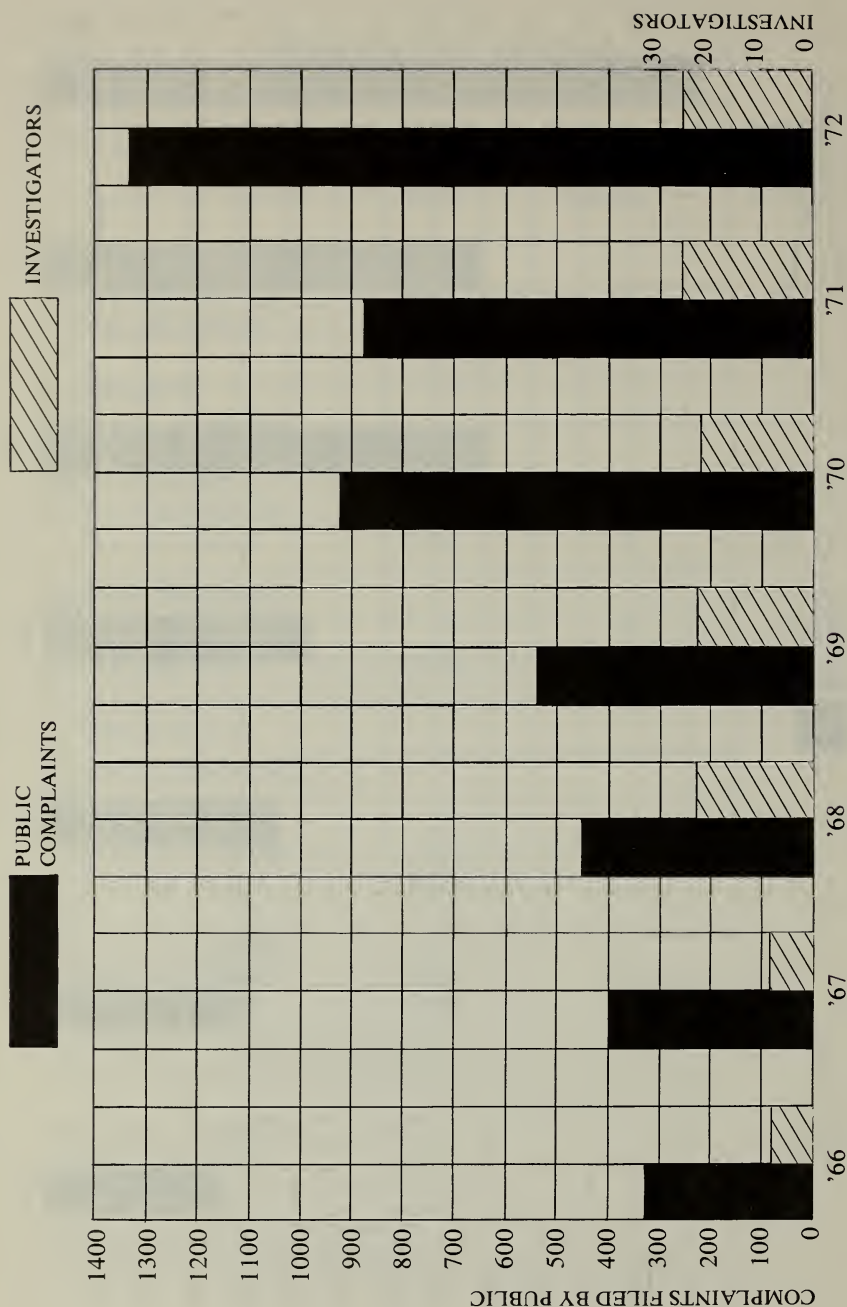
COMMISSION  
INITIATED

FILED BY  
PUBLIC

TOTAL



# RISE IN COMPLAINTS OUTSPACE INVESTIGATORS



\*\*\*Recurring problems on certain issues which were originally handled as commission initiated complaints are now handled through administrative procedures which result in the elimination of the unlawful practice without the need for a commission initiated complaint.

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## CASES FILED 1972

	No.	Pct.
Employment	890	65
Private Housing	341	25
Public Housing	13	01
Public Accommodations	66	05
Education	12	01
Exec. Order No. 74	11	01
Paragraph No. 4	<u>27</u>	<u>02</u>
Total	1,360	100 %
(Inv. 51)		

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## COMPLAINTS FILED IN 1972

(Jurisdiction & Basis)

	PrH	PH	Emp.	PA	Educ.	Exec. No. 74	Total
Race	20	1	90	8	0	0	119
Color	151	3	338	32	10	3	537
Religious Creed	4	0	44	2	0	0	50
Nat'l Origin	31	8	73	3	2	4	121
Nat'l Ancestry	1	0	11	0	0	1	13
Sex	20	0	259	17	0	3	299
Age	3	0	74	0	0	0	77
Children	65	0	0	0	0	0	65
Welfare	44	1	0	4	0	0	49
Military	2	0	0	0	0	0	2
Arrest Record	0	0	1	0	0	0	1
Blind	0	0	0	0	0	0	0
Par. No. 4	<u>4</u>	<u>0</u>	<u>23</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>27</u>
Total	345	13	913	66	12	11	1,360
Inv. 15							

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## COMPLAINTS AND INVESTIGATIONS FILED 1972

(Jurisdiction and Office)

	Boston	New Bedford	Spring- field	Wor- cester	Total
Private Housing	240	36	43	22	341
Public Housing	9	0	4	0	13
Public Accommod*	54	7	4	1	66
Education	12	0	0	0	12
Employment	465	16	55	21	557
Sex-Employment	208	9	23	19	259
Age-Employment	55	3	13	3	74
Paragraph No. 4	25	0	1	1	27
Executive No. 74	<u>11</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>11</u>
Total (Inv. 51)	1,079	71	143	67	1,360

\*Public Accommod. — abbreviation for public accommodation

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## CASES CLOSED IN 1972

	PrH	PH	Emp	PA	Exec No. 74	Total	Pct.
Race	10	1	45	3	0	59	4.259%
Color	130	3	625	65	2	825	59.566%
Rel. Creed	3	0	30	1	0	34	2.454%
Nat'l Origin	23	2	60	7	2	94	6.787%
Nat'l Ancestry	0	1	6	1	0	8	.577%
Sex	3	0	230	1	0	234	16.895%
Age	1	0	89	0	0	90	6.498%
Children	25	0	0	0	0	25	1.805%
Welfare	9	0	0	0	0	9	.649%
Military	1	0	0	0	0	1	.072%
Arrest Record	0	0	0	0	0	0	.000%
Blind	0	0	0	0	0	0	.000%
Par. No. 4	1	0	5	0	0	6	.433%
Total	206	7	1,090	78	4	1,385	99.995%
	14.873%	.505%	78.700%	5.631%	.288%	99.99%	99.995%

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## FINAL DISPOSITION OF CASES CLOSED IN 1972

	Field Operations	Backlog Unit	Total
Probable Cause/Conciliated	93	102	195
Lack of Probable Cause	302	186	488
Lack of Jurisdiction	37	24	61
Withdrawn*	56	514	570
Administrative	<u>5</u>	<u>66</u>	<u>71</u>
Total	493	892	1,385

\*NOTE: A high percentage of these cases were closed because the parties had settled the matter between themselves following our initiation of steps on behalf of the complainant. The use of interrogatories has resulted in significant numbers of settlements which might otherwise have been achieved only after lengthy investigation by field staff.



## 1972 PUBLIC HEARINGS

Cases Certified for Public Hearing	1972	83
Public Hearing Days	1972	73
Cases Involved in Above Hearings		40
Public Hearing Orders and Agreed Settlements	1972	8

### THE COMMONWEALTH OF MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION  
AGAINST DISCRIMINATION

COMPLAINANT      COMPLAINT No.  
71-ED-1-C/NO  
71-ED-2-C/NO

vs. BOSTON SCHOOL COMMITTEE  
RESPONDENT

M.C.A.D. Chairman, Glendora M. Putnam announced today that a plan for altering the admissions practices in the Boston Latin School, Girls Latin School and the Boston Technical High School, and increasing the admissions and enrollment of minority students, had been reached in the Commission case against the Boston School Committee relating to admission practices. The "Elite" Schools case, so-called, was commenced on August 6, 1970 on a complaint initiated by the M.C.A.D.

This matter came in for hearing before Commissioner Glendora M. Putnam and, after fifteen days of testimony, the hearing was recessed by request of attorneys for both parties. During such recess, the Commission and Respondent attorneys met in private sessions to fashion the following plan which was accepted by the hearing commissioner.

The Agreement followed some fifteen days of public hearing with testing and educational experts and a probing examination of the Respondent's admissions practices.

Mrs. Putnam stated that during the recesses in the proceedings, Commission and Respondent attorneys met in special private sessions to fashion the plan, which was delivered to the M.C.A.D. today, accepted, and upon which the hearings were terminated.

The plan calls for the introduction and use of a Secondary School Aptitude Test (S.S.A.T.) examination as part of the admissions process. All grade six and grade eight pupils who wish to be candidates for the Latin schools who have not failed 2 courses will be entitled to sit for the examination, and similarly, grade eight and nine students may test for the Boston Technical High School. The cost for this test will be borne by the City.

All other students not so qualifying may take the test at their own expense, if they seek admission to these schools.

These candidates will then be numerically ranked, and admission to grade nine of the Boston Latin School and Girls Latin School will be based solely in order of the rank achieved. Similarly, admission to grade ten at the Boston Technical High School will be on the same basis.

The grade seven admissions to the Boston Latin School and Girls Latin School, and the grade nine admissions to the Boston Technical High School will be similarly filled, except for eighty-four seats at the Latin Schools and twenty-eight seats at the Boston Technical High School.

These seats will be filled by candidates from the fifty-six school districts determined to be under-represented in these schools under the above admissions system. The candidates themselves shall be selected on guidelines and criteria including scholastic grades and S.S.A.T. scores.

The plan is projected for use beginning in September, 1973 for a period of three years. It is expected to increase the number of minority students, (particularly Black and Spanish-speaking) in these schools.

The plan, accepted and approved by multiple votes of the Boston School Committee on May 9, 1972, will be monitored by the M.C.A.D. and subject to review and re-assessment following the three-year period.

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GLENDORA M. PUTNAM  
Hearing Chairman

DATE: May 18, 1972



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation of

LILLIAN DUPRE

16 Titicut Street

Bridgewater, Plymouth County,

COMPLAINANT

FINDINGS OF FACT,  
CONCLUSIONS OF  
LAW AND ORDER

AGAINST

JOHN J. FITZPATRICK

Massachusetts Superintendent of  
Correction and Commissioner

100 Cambridge Street

Boston, Suffolk County

and

COMPLAINT NO.

70-S-16

CHARLES W. GAUGHAN, Superintendent

Massachusetts Correctional Institute

Bridgewater, Plymouth County

RESPONDENTS

This case was heard by the Massachusetts Commission Against Discrimination before Acting Hearing Chairman David Burres and Commissioner Ben G. Shapiro.

Upon consideration of all the evidence, Commissioner David Burres finds that the Respondents, John J. Fitzpatrick, Massachusetts Commissioner of Correction, 100 Cambridge Street, Boston, Suffolk County; and Charles W. Gaughan, Superintendent, Massachusetts Correctional Institute, Bridgewater, Plymouth County, have engaged in unlawful practices as defined in Chapter 151B, S 4, paragraph 1 of the Mass. Gen. Laws and state their findings as follows:

FINDINGS OF FACT

1. Complainant Lillian Dupre is a female adult employed successively as a storeroom helper and storekeeper by the



Massachusetts Department of Correction and assigned to the Massachusetts Correctional Institution, Bridgewater, from 1945 to the present.

2. Respondent John J. Fitzpatrick is the Commissioner of the Department of Correction. Respondent Charles W. Gaughan is the Superintendent of the Massachusetts Correctional Institution, Bridgewater.

3. In August, 1965, the MCAD approved a request by the Commissioner of the Department of Correction "for an exemption from the provisions of the sex amendment to the fair practice law G.L.C. 151B, for those positions (at Bridgewater Correctional Institute, among others) which involve personal and direct contact with prisoners."

4. Complainant had worked in the storeroom area for twenty (20) years prior to the issuance of the MCAD's letter (Finding of Fact No. 3). She continued to work in the storeroom until and subsequent to her appointment as "Storekeeper" in September, 1968.

5. In December, 1969, James E. Burke, the "Principal Storekeeper" and the Complainant's immediate supervisor, became ill and took sick leave. The Complainant assumed his duties.

6. After thirty (30) days, the Complainant became eligible and applied for the salary commensurate with the position of "Principal Storekeeper."

7. Respondent Gaughan denied the Complainant's request on the grounds that she was ineligible for the position because of her sex.

8. Shortly thereafter, a male employee without experience was appointed "Temporary Principal Storekeeper."

9. In February, 1970, a notice was posted requesting applications for the Civil Service position of "Principal Storekeeper." The notice stated that only males were eligible.



10. The duties of "Storekeeper" and "Principal Storekeeper" are quite similar and are performed in the same general area.

11. Complainant has had contact with inmates for twenty-five (25) years and no attempt has ever been made to molest or assault her.

12. The terms of the MCAD letter (Finding of Fact No. 3) were never applied to the complainant until January, 1970, when she sought a promotion to the position of "Temporary Principal Storekeeper." Subsequently, in May, 1970, Complainant was ordered transferred from the warehouse to a "Safer" position.

13. The sole reason the Complainant, Lillian Dupre, was not permitted to take the examination for the position of "Principal Storekeeper" was the fact that she is a woman.

### **CONCLUSIONS OF LAW**

1. Respondents John J. Fitzpatrick and Charles W. Gaughan both come within the definition of "person" within the meaning of S 1, paragraph 1 of Mass. Gen. Laws, Chapter 151B.

2. The course of conduct of the Respondents in permitting the Complainant to work in the storeroom "in direct contact with prisoners" from August, 1965, until May, 1970, and then invoking the MCAD exemption (Finding of Fact No. 3) to prevent her from taking the examination for the position of Principal Storekeeper solely because of her sex is found to constitute an unlawful practice within the meaning of Chapter 151B, S 4, paragraph 1 of the Massachusetts General Laws.

3. The "males only" restriction applied to applicants for the position of "Principal Storekeeper" is, therefore, unlawful and void under Chapter 151B, S 4, paragraph 1 of the Massachusetts General Laws.

## ORDER

On the basis of the foregoing and pursuant to the General Laws of Massachusetts, Chapter 151B, S 5, it is hereby ordered by the Massachusetts Commission Against Discrimination that the Respondents, their agents and servants:

1. Henceforth and in the future cease, desist and refrain from discrimination in employment against any person because of his/her sex. To effectuate the above order, the "Exemption Letter" (Finding of Fact No. 3) is hereby vacated.

2. Instruct the Civil Service Commission that the examination for "Principal Storekeeper" shall be open without regard to the applicant's sex unless specifically exempted by this Commission.

3. Allow the Complainant to take the next examination for the position of "Principal Storekeeper."

4. Reassign the Complainant to the warehouse and allow her to resume the position of Temporary Principal Storekeeper pending the results of the examination required by Order No. 3 above.

5. Pay the Complainant back pay in an amount representing the difference between her salary as storekeeper and the amount she would have received as Temporary Principal Storekeeper between January, 1970, and the date that the Permanent Principal Storekeeper assumes office. (See attached copy of wage differential supplied by the Department of Correction.)

Any person aggrieved by an Order of the Commission may obtain judicial review thereof, pursuant to S 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

Any person claiming to be aggrieved by the award of damages may, notwithstanding the provisions of S 6 and within

ten (10) days of notice of the damage award, bring a petition in the municipal court of the City of Boston or in the district in which the Respondent resides.

Massachusetts Commission Against  
Discrimination

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BY: DAVID BURREN  
Hearing Chairman

DATED: Boston — 15 December 1972



THE COMMONWEALTH OF MASSACHUSETTS

Department of Correction  
Massachusetts Correctional Institution, Bridgewater  
Bridgewater 02324

November 22, 1971

TO: Mr. Charles Christy-Department of Correction  
RE: Lillian E. Dupre, Storekeeper (For as long as funds appropriated)

Storekeeper - 10-663 - \$141.75 per week - Step 4  
From March 1, 1970 to February 28, 1971 -  
Annual Rate of Salary . . . . . \$7,371.00  
Salary increase effective December 13, 1970 to  
\$146.50 per week - Step 5.  
One step increment \$4.75 per week for eleven  
weeks (From December 13, 1970 to February  
28, 1971) . . . . . 52.25  
From February 28, 1971 thru October 29, 1971  
(date of hearing) \$146.50 per week for thirty-  
five weeks . . . . . 5,127.50  
Total \$12,550.75

Principal Storekeeper - 12-741 - \$147.50 per week - Step 2	
From March 1, 1970 to February 28, 1971 -	
Annual Rate of Salary . . . . .	7,670.00
Salary increase effective December 13, 1970 to	
\$152.90 - Step 3.	
One step increment \$5.40 per week for eleven	
weeks (From December 13, 1970 to February	
28, 1971) . . . . .	59.40
From February 28, 1971 thru October 29, 1971	
(date of hearing) \$152.90 per week for	
thirty-five weeks . . . . .	<u>5,351.50</u>
Total	\$13,080.90

Principal Storekeeper . . . . .	\$13,080.90
Storekeeper . . . . .	<u>12,550.75</u>
Difference . . . . .	\$ 530.15

in salary from March 1, 1970 thru  
October 29, 1971.

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/s/ Charles W. Gaughan, Superintendent

CWG/vc  
cc: Miss Iorio



COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

In Relation Of  
SHARON COMBS

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW AND ORDER

VS.

ISRAEL BERNSTEIN

COMPLAINT NO.

RESPONDENT

71-PrH-76-C

This case was initiated on August 9, 1971, by the filing of a complaint by Sharon Combs (hereinafter referred to as "the Complainant") with the Massachusetts Commission Against Discrimination, pursuant to M.G.L. Chapter 151B, Section 5. The complaint alleged that Israel Bernstein (hereinafter referred to as "the Respondent"), the owner of record of a building located at 335 Beacon Street, Boston, Massachusetts, unlawfully discriminated against the Complainant in violation of M.G.L. Chapter 151B, Section 4.

Probable cause to credit the allegations of the complaint was found on March 13, 1972, by Investigating Commissioner Douglas D. Scherer.

Pursuant to M.G.L. Chapter 151B, Section 5, on May 25, 1972, the matter was certified for public hearing, and a hearing was held on July 26, 1972, at 120 Tremont Street, Boston, Massachusetts, before Commissioner Norman Holtz.

**FINDINGS OF FACT**

In essence, the Complainant alleged that in the course of being shown apartments by the Respondent; she identified herself as an employee of "Afro-Americans for Educational Opportunity." At that point, the Respondent appeared to be

in a rage and made statements about "these people taking my property from me" and ordered her to leave his property. He did not inform her of his rental application procedure and failed to negotiate rental with her.

The Respondent denied that he made such statements to her or that he ordered her from the building, and asserted that he did inform her of his rental application procedure.

In carrying out the fact-finding responsibilities, certain preliminary decisions on the credibility and weight of the evidence have necessarily been made. These judgments are reflected in the ultimate and subsidiary findings.

1. The Complainant, Sharon Combs, is a Black woman. The Respondent, Israel Bernstein, a Caucasian, is the owner of record of an apartment building located at 335 Beacon Street, Boston.

2. At the time of the occurrence described below and thereafter, the Complainant was employed by the Afro-Americans for Educational Opportunity, a college counselling program sponsored by Harvard University, and funded by the Carnegie Corporation of New York, and was earning an annual salary of \$10,800.

3. On August 6, 1971, after seeing a sign posted on the premises of 335 Beacon Street, which stated the availability of a one bedroom apartment, the Complainant called the telephone number listed and spoke to the Respondent. He told her that there were two one bedroom apartments available which rented for \$150. per month, and they made an appointment to see the apartments on August 7, 1971.

4. At 8:00 a.m., on August 7, 1971, the Complainant met the Respondent at 335 Beacon Street, and he took her inside to see two apartments. However, the Respondent was able to gain entrance only to an apartment on the second floor.

5. Prior to reaching this apartment, the Respondent made several inquiries of the Complainant regarding the nature of

her work. The Complainant answered that she worked in "a college counselling program" sponsored by Harvard University.

6. Shortly after the Respondent let the Complainant into the second floor apartment, he asked her specifically the name of the program for which she was working. When she responded that the name of her employer was "Afro-Americans for Educational Opportunity", the Respondent said, "You will have to leave".

7. The Complainant testified that the Respondent appeared to be angry and further stated to her, among other things, that he was "tired of these people taking his property, people who gave me no rental" and that he was tired of problems and trouble that he had with these people.

8. According to the Complainant, he was in a rage and very perturbed. She asked him what people he was referring to and why she was being asked to leave the apartment. The Respondent responded by repeating his statements about these people taking property from him.

9. Whereupon, the Respondent escorted the Complainant out of the apartment, out of the building and to the street.

10. Upon leaving the apartment, the Complainant was very upset, frustrated and angry at the situation.

11. From what she saw of the second floor apartment, the Complainant testified that she would have been interested in renting it. However, the Respondent neither offered to rent her an apartment nor indicated to her that there were any application forms to fill out.

12. The Complainant testified that she thereafter sought to find alternative housing for ten (10) days during which time she incurred a travel expense of \$3.50, finally signing a one year lease running from September 1, 1971 through August 31, 1972, for an apartment which rented at \$180 per month, \$30 per month higher than the one she inspected at 335 Beacon Street.

13. Ms. Ethel Cohn, an Investigator for the M.C.A.D. at that time was assigned to investigate the case and testified that she spoke to the Respondent concerning this case in August 1971.

14. Upon informing him that a complaint had been filed by the Complainant, she testified that the Respondent became very excited and emotional and stated, "They have been taking my property at 310 Warren Street; I have my rights and they are taking my property". Ms. Cohn asked him several times who he meant by "they" but the Respondent did not respond.

15. I do not credit the Respondent's denial of making statements regarding "these people" to the Complainant and Ms. Cohn, nor do I credit his assertion that on August 7, 1971, he informed the Complainant of his procedure in renting an apartment from him.

16. Rather, I find from the testimony of Ms. Cohn and the Complainant regarding the statements and actions of the Respondent on August 7, 1971, after she specified her employment and association with "Afro-Americans for Educational Opportunity" that the Respondent was referring to Black people and that his statements and actions in asking the Complainant to leave the building were directed to her because of her race and color.\*

## CONCLUSIONS OF LAW

1. The apartment in question in this proceeding located at 335 Beacon Street, Boston, Massachusetts, comes within the definition of multiple dwelling housing within the meaning of M.G.L. Chapter 151B, Sections 1, 4-6.

2. The course of conduct, statements and dealings of the Respondent, with respect to the Complainant, on August 7, 1971, constituted an unlawful practice within the meaning of M.G.L. Chapter 151B, Sections 4-6 in that: —

a. He refused to rent or negotiate rental or otherwise



withheld from the Complainant an apartment located at 335 Beacon Street because of her race and color, and:

- b. He discriminated against the Complainant because of her race and color in terms, conditions or privileges of the acquisition of the accommodations located at 335 Beacon Street.

### ORDERS

On the basis of the foregoing, and pursuant to M.G.L. Chapter 151B, Section 5, it is hereby ORDERED by the Massachusetts Commission Against Discrimination, that the Respondent, Israel Bernstein, and his agents and servants:

1. Henceforth and in the future, cease, desist and refrain from any inquiry, distinction, discrimination or restriction on account of race, color, religion, national origin, sex, age or ancestry in the rental or offering for rent of any housing accommodations owned or controlled by him and from denying or causing to be denied on the basis of race, color, religion, national origin, sex, or age or ancestry; the opportunity to rent or lease or negotiate for the rental or lease of said housing accommodations.

2. Pay to the Complainant, damages in the amount of \$613.50. The damages are computed as follows:

Expense incurred in obtaining alternative housing.	\$ 3.50
Rental difference in alternative housing:	360.00
Mental suffering:	250.00

3. Report to this Commission within thirty (30) days from date of service of this Order what steps the Respondent has taken or is taking to comply with the above Order.

In accordance with the provisions of M.G.L. Chapter 151B, a party aggrieved by this Order may file an appeal for rehearing or review by the Commission. This appeal must be

in the form of a written petition filed within ten days. The rules regarding such petitions are set forth in Rule 13.01 (1) to (7) of the Commissions' Rules for Adjudicatory Proceedings.

Any person aggrieved by any Order of the Commission may obtain judicial review thereof, pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

A review of any damage award may be brought by filing a petition in Boston Municipal Court or in the district court in which the party resides. Such a petition must be filed within ten (10) days. Judicial review of the Order may also be obtained by filing a petition in Massachusetts Superior Court within thirty (30) days after service of this Order.

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NORMAN HOLTZ  
Commissioner

Date: December 19, 1972

\*Throughout my findings, and with particular reference to findings 15 and 16, I have based my credibility findings on the demeanor of the witnesses and my observations of the witnesses through the hearing. See *New England Telephone and Telegraph v. Department of Public Utilities*, 71 A.S. 1613, 275 N.E. 2d. 493, 503, 1971, and *Martin v. Director of Division of Employment Security*, 347 Mass. 264, 197 N.E. 2d. 594, 1964.



# THE COMMONWEALTH OF MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

On Relation Of

ANNE GUERTIN

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW AND ORDER

AGAINST

BOSTON MATERNITY AND  
INFANT CARE CHILDREN AND  
YOUTH PROJECT  
and

LOIS WEBB

COMPLAINT NO.

71-S-7-CA

RESPONDENTS

Pursuant to the provisions of subsection 5 of Chapter 151B of the Massachusetts General Laws, a hearing was held before the Massachusetts Commission Against Discrimination on the above-entitled matter. Upon all the evidence, Commissioner Glendora M. Putnam found that the Respondent, Boston Maternity and Infant Care Children and Youth Project and Lois Webb have not engaged in unlawful discrimination as defined in Chapter 151B, Section 4 of the General Laws of Massachusetts, stating her findings as follows:

## FINDINGS OF FACT

1. The Complainant, Anne Guertin, a female, resides at 33 Highland Avenue, Cambridge, Massachusetts. Complainant was employed on or about June of 1969, as a case-aide worker by the Respondent, Boston Maternity and Infant Care Children and Youth Project. She continued her employment at this facility until October of 1971.

2. The Complainant at the time of public hearing in this case was employed by the Worcester Foundation for Experi-

mental Biology in Shrewsbury, Massachusetts as a research assistant.

3. The Complainant holds a B.A. degree in psychology and has completed two years of graduate work in the same field at California State College, Los Angeles, California.

4. Prior to employment by the Respondent, the Complainant was employed as a social worker for the Department of Public Social Services, Los Angeles County, California, for approximately thirty months and was employed as a child case worker for approximately one year at the Hathaway House for Children.

5. The Respondent, Boston Maternity and Infant Care Children and Youth Project, is a social service agency operating four or five clinics in the Boston Area. The project "so called" was under the direction of a project administrator Mr. Waldo, with component coordinators in nursing, nutrition and family planning and social work, all of whom were women.

6. On or about June of 1969, the Respondent had positions open as case-aide workers and hired 3 persons as case-aide workers; Anne Guertin - *June 1969*; Dennis Lucetti - *September 1969*; George Stokes - *September 1969*.

7. At the time of hiring the Complainant, there existed no formal or written job description for the position for which the Complainant was hired, or for the two other case-aide worker positions.

8. The Respondent intended to prepare the job descriptions during the course and development of the project.

9. The Respondent did intend specific responsibilities, duties and functions for the various positions available at the time the Complainant was hired.

10. Mrs. Faye Weston, an expert in the field of social work and the Social Work Coordinator for the Respondent was responsible for the hiring of Project personnel.

11. Mrs. Weston hired the Complainant in the position of case-aide social worker at a step 3 at an annual salary of \$6767.

12. Salaries were based and determined on prior experience and the work duties intended to be performed.

13. The Complainant's duties and responsibilities were to provide counselling services to patients in the clinic to which she was assigned. She carried a case-load of approximately 35-40 cases. She made some home calls. Her basic workday was from 8:00 a.m. to 4:30 p.m. The duties and responsibilities of her position did not include teaching courses in the community and she was rarely scheduled for night duty.

14. Mrs. Faye Weston hired George Stokes in September 1969 in the position of case-aide social worker at a step 5 at an annual salary of approximately \$7300.

15. George Stokes' background included a B.A. degree in social work, and some work-study placement and summer experience primarily in working with youths in correctional settings and at camp-type activities.

16. George Stokes' duties and responsibilities were to work in four clinics and to develop a liaison with job resources for the fathers and young brothers in the four clinic populations. In addition, he was scheduled to teach family planning courses 3 nights per week. He carried an average of 10 cases per clinic though all were not active cases. His workday was scheduled from 8:30 a.m. to 9:00 p.m.

## **CONCLUSIONS OF LAW**

1. The Respondent comes within the definition of an employer as defined in Chapter 151B, Section 1, subsection 5 of the Massachusetts General Laws.

2. I conclude that the duties and responsibilities of the position for which George Stokes was hired (hereinafter called the "Stokes" position) differ significantly from those duties

and responsibilities of the position for which the Complainant was hired.

More particularly, I conclude that in addition to providing counselling services to clientele, the position called for:

- a. The development of resources in the community for training or employment.
- b. The teaching of courses in the community three (3) nights per week.
- c. A greater and longer than normal workday, from 8:30 a.m. to 9:00 p.m.

3. I conclude that while the Respondent employed the same title descriptions for both the Complainants position and the "Stokes" position that the Respondent intended different responsibilities and duties for each position; and that the allocation and setting of salaries for each was fair, reasonable and justified and on a non-discriminatory basis.

4. I conclude that while the Respondent hired a male, George Stokes, for the higher paying position, that there was insufficient evidence to find that such action was based upon any sex discrimination.

## **ORDER**

Upon the basis of the foregoing findings of fact and conclusions of law and pursuant to Section 5 of Chapter 151B of the Massachusetts General Laws, it is hereby ORDERED by the Massachusetts Commission Against Discrimination that:

The Complaint against the Respondents, Boston Maternity and Infant Care Children and Youth Project and Lois Webb is dismissed.

Any person aggrieved by an Order of the Commission may obtain judicial review thereof pursuant to Section 6 of Chapter 151B of the Massachusetts General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.



In accordance with the provisions of M.G.L. Chapter 151B a party aggrieved by this Order may file an appeal for rehearing or review by the Commission. This appeal must be in the form of a written petition filed within ten days. The rules regarding such petitions are set forth in Rule 13.01 (1) to (7) of the Commission's Rules for Adjudicatory Proceedings.

Massachusetts Commission  
Against Discrimination

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GLENDORA M. PUTNAM  
Hearing Commissioner

Date: December 19, 1972





COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
COMMISSION AGAINST DISCRIMINATION

ANNE M. GEIER  
743 Montello Street  
Brockton, Plymouth County

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW AND ORDER

VS.

BRIEF ORIGINALS, INC.  
33 Dover Street  
Brockton, Plymouth County

RESPONDENT

COMPLAINT NO.

72-S-7-CA

I  
INTRODUCTORY STATEMENT

Anne M. Geier (hereinafter referred to as "the Complainant") filed a sworn complaint on or about January 27, 1972, alleging, in essence, that Brief Originals, Inc., (hereinafter referred to as "the Respondent") denied her employment because of her sex, in violation of M.G.L. 151B, Section 4 *et seq* (Commission Exhibit 1B). The complaint includes a class action allegation asserting that the respondent's unlawful practices discriminate against the named female complainant and against other females who are employed or may be employed by the Respondent.

On or about September 7, 1972 a Notice of Hearing (Commission Exhibit 1A) was issued, directing the Respondent to appear at a public hearing on September 26, 1972. The parties requested a postponement of the public hearing until November 8, 1972; this Commissioner granted the request.

The Respondent has not filed a response to the complaint.

A public hearing was held on November 8, 1972 in Boston in accordance with General Laws Chapter 151B, Section 5. Witnesses were presented by both the Complainant and the Respondent.

This Commissioner after hearing all of the evidence, observing the witnesses and considering counsel's arguments both oral and written finds that the Respondent Brief Originals, Inc., has engaged in unlawful sex discrimination as defined in Chapter 151B, Section 4 of the General Laws of Massachusetts and issues the following Findings of Fact, Conclusions of Law, and Orders.

## II FINDINGS OF FACT

### *A. The Respondent Corporation*

1. The Respondent is a Massachusetts business corporation which manufactures dresses for wholesale distribution, employing approximately 400 persons at 4 facilities.<sup>1</sup>

2. The data processing department is located at 33 Dover Street, Brockton, Massachusetts. We are here concerned with the employment practices of the data processing department located at the Employer's 33 Dover Street, Brockton, Massachusetts location.

3. Mr. Kenneth Shafer is the Respondent's Vice-President.

4. Mr. Donald Spund is the Respondent's Treasurer and Vice-President in charge of Administration.

5. Mr. Richard Lovell is employed by the Respondent as the Senior Programmer Analyst. Mr. Lovell is responsible for the Respondent's data processing department and has been since the department was initiated in October, 1970. His duties include hiring, supervising and discharging all personnel in the data processing department. Hiring decisions are made in conjunction with Mr. Spund.

## B. *The Data Processing Department*

6. The computer room is located on the first floor of the 33 Dover Street, Brockton facility. Computer cards and paper stock are kept in this room, in a limited supply, on wall racks. The computer operator must bring the cards and paper up from the storage area in the basement in boxes. A full box of computer cards weighs approximately 50 pounds. The paper stock, which comes in various sizes, weighs between 30 and 50 pounds per box. The weight of the boxes decreases as the contents are used.

Traveling between the basement storage area and computer room involves walking approximately 8 yards to a staircase, up four steps to a platform, then mounting 4 or 5 more stairs to the first floor and across the corridor to the computer room.

7. Between June 14, 1971 and November 8, 1972, 3 computer operators (2 male and 1 female), 4 computer programmers (including Mr. Lovell), and approximately 3 key punch operators have been employed by the Respondent to work in the data processing department. On or about November 8, 1972, there were 7 employees employed in the data processing department.

8. The primary function of a computer operator is to operate the computer. In addition, a computer operator is responsible for maintaining the computer and surrounding area in a proper state of cleanliness, maintaining a tape library and maintaining an appropriate level of card and paper stock.<sup>2</sup>

9. On January 17, 1972, a position was available for a second computer operator.<sup>3</sup>

10. On or about January 16, 1972, an advertisement was placed in the *Brockton Enterprise*, by the Respondent, soliciting applicants for the position of computer operator.

## C. *Procedure for Selecting the Prospective Computer Operator*

11. Applicants appearing at the Respondent's Dover Street facility completed an application form.<sup>4</sup> The completed application forms were read to Mr. Lovell by an assistant as the former is blind. Mr. Lovell personally interviewed those applicants in whom he was definitely interested (approximately 10-20 out of 25) and recommended only one applicant, Gary Lanoue, to Mr. Spund for a second and final interview.

12. Mr. Lanoue was hired and began working for the Respondent no earlier than the beginning portion of February, 1972.<sup>5</sup>

#### *D. Criteria Used for Selecting the Prospective Computer Operator*

13. No written guidelines were provided by the Respondent corporation to its agents responsible for filling the vacant position in question.

Mr. Spund did not issue verbal instructions nor did he review the selection procedures used by Mr. Lovell.

14. There was a mutual understanding between Mr. Spund and Mr. Lovell that the applicant finally selected would be a male.

15. Both Mr. Spund and Mr. Lovell testified as to having a personal preference for a male.

16. Mr. Spund testified on cross examination that he "couldn't see a girl, to wit Ms. Daugherty, lugging heavy cartons" and that he wanted a "pretty strong young boy" to help with that work.

17. Mr. Lovell testified that he thought the paper and card supply boxes would move more quickly if a man were operating the computer. However, he at no time testified that Ms. Daugherty failed nor refused to perform this responsibility of the job.



### *E. Ms. Anne Geier's Application for Employment*

18. On January 17, 1972, the Complainant responded to the Respondent's advertisement by going to the Dover Street location.

19. The Complainant completed an application form given to her by the switchboard operator and returned said completed application to the switchboard operator, who then informed Ms. Geier that Mr. Lovell was interviewing for the vacant position but that he was unable to interview her at that time and would call her to arrange an appointment.

20. The Complainant telephoned the Respondent a few days later after not being contacted by Mr. Lovell. The Complainant identified herself to the switchboard operator, the same woman she had spoken with on January 17, and asked when an appointment could be arranged with Mr. Lovell. The switchboard operator informed the Complainant that Mr. Lovell had "decided that he only wants a man". The Complainant then asked to speak to Mr. Lovell and was put through to him.

21. Mr. Lovell admitted to the Complainant that he did not interview her since she was a woman. His response to the Complainant's question regarding his reasons was to hang up.<sup>6</sup>

22. The Complainant suffered great emotional distress because she was denied an opportunity for employment solely because of her sex.

23. The Complainant lost two days work at \$22 per day; one to file the complaint at this Commission and the other to participate in the public hearing held on November 8, 1972. The Complainant further had to hire a baby sitter at \$5.00 per day for these same two days.

24. The Complainant does not possess a driver's license; therefore, the Complainant's husband took time away from work in order to drive the Complainant to Boston on the two

above days at a cost to them of \$32.00 (16 hours at \$2 per hour).

### G. *Defenses Asserted by Respondent*

25. Respondent acknowledges that it did not interview Complainant for the job of computer operator because of her sex,<sup>7</sup> but argues that Respondent was justified in excluding women for this particular job because the ability to lift 40 to 50 pound boxes was a necessary part of the duties involved in this job and, therefore, the requirement that the prospective computer operator be male was a bona fide occupational qualification according to Chapter 151B, Section 4 of the Massachusetts General Laws.

26. Respondent asserts that it was completely impracticable to interview all women applicants in order to determine which were physically capable of carrying out the lifting requirement.

## III CONCLUSIONS OF LAW

A. The Commission has jurisdiction over Respondent corporation pursuant to the provisions of M.G.L., Chapter 151B, Section 1 *et seq.*

B. The bona fide occupational qualification ("BFOQ") exemption is to be narrowly construed.<sup>8</sup>

C. The Respondent has the burden of proving that a BFOQ exemption according to either the standard established in *Weeks v. Southern Bell Tel. and Tel. Company*, 408 F. 2d 228 (5 Cir, 1969) or that in *Diaz v. Pan Amn. World Airways*, 442 F. 2d 385 (5 Cir, 1971).

1. The *Weeks* standard is to be applied in cases concerning functions inherently necessary to the job. A BFOQ



exemption may be granted where the employer has "a factual basis for believing that all or substantially all women would be unable to perform safely and efficiently the duty of the job involved". 408 F. 2d 235.<sup>9</sup>

2. *Diaz* promulgates a rule to be followed where a BFOQ is sought for functions which are not reasonably necessary to the normal operation, "All males cannot be excluded simply because most males may not perform adequately."

D. The Respondent has neither satisfied its burden of proof under the *Weeks* nor the *Diaz* rule.

E. The Respondent has violated Chapter 151B, Section 1 *et seq* of the M.G.L. by refusing to interview the Complainant on the basis solely of her sex, as sex has not been determined to be a BFOQ for the position of computer operator at Respondent corporation.<sup>10</sup>

F. The Commission is authorized to award monetary damages including compensation for emotional distress. The damages provision is to be liberally construed to effectuate the purposes of Chapter 151B, Section 1 *et seq*: (a) to eliminate unlawful discrimination, and (b) to provide adequate remedies for those persons who are subject to discrimination so as to render them whole.<sup>11</sup>

#### IV ORDER

Pursuant to the authority granted this Commission under Chapter 151B, Section 5, it is hereby ORDERED, ADJUDGED AND DECREED by this Commission that the respondents, their officers, employees, agents and successors, and all persons in active concert with the respondents or any of its officers, employees, or agents shall cease and desist from:

1. Refusing to hire or employ any person because of his or her sex; and

2. Subjecting any employee or prospective employee to any form of discrimination in the terms, conditions, or privileges of employment because of his/her sex unless based upon a bona fide occupational qualification.

It is further ORDERED the respondent shall:

1. Offer the complainant the next available computer operator position (or equivalent position until such time as a substantially identical computer operator position becomes available) at a rate commensurate with those persons employed by the respondent in similar positions;

2. Pay the complainant the sum of \$500 for the emotional distress which she experienced as a result of the incident complained of; said payment to be made no later than forty (40) days after the entry of this Order;

3. Pay the complainant the sum of \$182 for the expenses she incurred due to her participation in the processing of the complaint that she filed with this Commission; said payment shall be made no later than forty (40) days after the entry of this Order; and

4. Post prominently on the premises of the Respondent's facility and distribute to each of its employees in Massachusetts a copy of the attached Notice to Employees which is incorporated herein by reference as though fully set out; said posting and distribution shall be completed no later than forty (40) days after the entry of this Order.

It is further ORDERED that, no later than forty-five (45) days after the date of the Order, the Respondent shall submit to the Chairman of the Commission a written report stating (a) the date(s) of the distribution of the referenced Notice to Employees; (b) the manner of said distribution; and (c) the person(s) responsible for the distribution.

It is further ORDERED that on July 1, 1973, and at four (4) month intervals thereafter, for a period of two (2) years following, the Respondent shall submit to this Commission a

written report containing the following information:

The name, address and sex of each person making inquiry about the availability of employment opportunities during the preceding four month period, and whether such person:

1. Was referred by an employment agency or other referral source; and, if so, the name and address of that source;
2. Was offered an application;
3. Filled out an application;
4. Submitted an application;
5. Was interviewed;
6. Was offered a position; and if offered a position, the job title, job description and rate of pay of said position;
7. Was not offered a position, and if not offered a position, the job title, job description, rate of pay of the position applied for, and reason(s) therefor, including the specific objective criterion the applicant failed to meet.

The report shall also state the date on which each of the foregoing actions was taken.

The reports filed pursuant to this Order shall also include a description of all affirmative steps taken during each preceding reporting period in compliance with this Order. Respondents shall submit also copies of all advertisements soliciting prospective employees, together with the date(s) and media in which they were published. Respondents shall also submit copies of the language used in each placement with an employment agency, together with the date(s) of the submission, and the identity of the employment agency.

For a period of two years following July 1, 1973, the respondents shall maintain and retain any and all records which are the source of, or contain any of the information pertinent to Respondent's obligations to report to the Commission. Representatives of this Commission shall be permitted

to inspect and copy all pertinent records of the Respondents at any and all reasonable times, provided, however, that the Commission shall endeavor to minimize any inconvenience to the Respondents from the inspection of such records.

The Commission retains jurisdiction of this action for all purposes.

In accordance with the provisions of Massachusetts G.L. Chapter 151B, a party aggrieved by this Order may file an appeal for rehearing or review by the Commission. This appeal must be in the form of a written petition filed within ten days. The rules regarding such petitions are set forth in Rule 13.01 (1) to (7) of the Commission's Rules for Adjudicatory Proceedings.

Any person aggrieved by any Order of the Commission may obtain judicial review thereof, pursuant to Section 6, of Ch. 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

So Ordered this 20th day of December, 1972.

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NORMAN HOLTZ

Hearing Commissioner

Date: *December 20, 1972*



## NOTICE TO EMPLOYEES

On January 17, 1972, Ann Geier of Brockton, Massachusetts, filed a complaint against Brief Originals, Inc. Ms. Geier alleged that she had been the subject of discrimination because of her sex. An appropriate investigation was conducted. The Investigating Commissioner found that Probable Cause existed to credit the Complainant's allegations. Conciliation failed.

Thereafter, on November 8, 1972, a Public Hearing was held in Boston. Hearing Commissioner Norman Holtz found that Brief Originals, Inc., had violated the Massachusetts General Laws, Chapter 151B, by refusing to interview Ann Geier for the position of computer operator.

Commissioner Holtz issued an order containing, among other things, the following items:

1. Brief Originals, Inc., cease and desist from excluding women from employment opportunities at any of its several facilities in Massachusetts; and
2. Ms. Geier be offered the next computer operator position which becomes available; and
3. Brief Originals, Inc., pay Ms. Geier \$500 for the emotional distress she suffered as a result of the actions of Brief Originals, Inc.;
4. Brief Originals, Inc., pay Ms. Geier \$182 for the out-of-pocket expenses she incurred during the processing of the complaint which she filed with the Commission; and
5. Brief Originals, Inc., is required to inform its employees of the nature of the proceedings brought by Ms. Geier and to inform all employees that any who have reason to believe that he or she has been discriminated against by Brief Originals, Inc., in violation of the General Laws, Chapter 151B, may file a complaint with the Massachusetts Commission Against Discrimination without fear of reprisal or retaliation by Brief Originals, Inc.

<sup>1</sup>The facility at 33 Dover Street, Brockton, employs approximately 120 persons; a second stitching plant in Brockton employs approximately 70 persons; 150 persons are employed at a stitching facility in New Bedford; and a small sales office is maintained in New York City.

<sup>2</sup>The computer operator would have to go to the basement for supplies once or twice per week and between the wall racks and the computer 40-50 times per day.

<sup>3</sup>Ms. Margaret Daugherty was then employed as a computer operator, performing satisfactorily in her job.

<sup>4</sup>The application forms were subsequently discarded; Mr. Lovell does not remember the question which the applicants were asked to complete.

<sup>5</sup>Mr. Lanoue resigned his position prior to November 8, 1972.

<sup>6</sup>Mr. Lovell did not directly deny Ms. Geier's recollection; however, he remembers the conversation with her differently. This Commission can assess the credibility of witnesses before it at public hearing and to the extent that there are conflicting versions, I credit Ms. Geier based upon my observation of her and the demeanor of other witnesses. See, *Martin v. Director of Division of Employment Security*, 347 Mass. 264, 197 N.E. 2d 594 (1964), *School Committee of Chicopee v. Massachusetts Commission Against Discrimination*, 280 N.E. 2d 404 (1972).

<sup>7</sup>The Complainant's qualifications were not introduced into evidence; both parties agreed that her qualifications were not at issue.

<sup>8</sup>The parties agreed that in the absence of Massachusetts case law determining what constitutes a BFOQ, decisions of the federal court interpreting Section 703(e) of the Civil Rights Act of 1964 must be considered.

<sup>9</sup>This Commissioner feels that the evidence presented by the Respondent to establish that the lifting requirement is inherently necessary to satisfactorily perform the duties of a computer operator (see Finding of Fact No. 6 supra) is inadequate to establish the factual basis required.

<sup>10</sup>The evidence presented is conclusive to make a determination in regard to the class action allegation asserted by the Complainant and that allegation is dismissed.

<sup>11</sup>See *MCAD v. Franzaroli*, 256 N.E. 2d 311 (1970) (a housing case where the court upheld an award to the Complainant for mental suffering), citing *Lombard v. Lennox*, 155 Mass. 70, 28 N.E. 1125, *Lombard* involved an alleged wrongful discharge from employment.



## ADMINISTRATION DIVISION

The Commission's BUDGET is managed by NANCY L. BARNES, who reports the following summary covering all financial activity of the MCAD during 1972:

### *Analysis of Disbursements:*

Salaries - Permanent . . . . .	\$491,431.05
Salaries - Temporary . . . . .	95,020.97
Services - Non Employees . . . . .	23,969.83
Heat and Light . . . . .	3,549.30
Travel and Automotive . . . . .	10,694.47
Advertising and Printing . . . . .	5,239.63
Repairs . . . . .	762.62
Special Supplies and Expenses . . . . .	.00
Office and Administration . . . . .	25,006.45
Equipment . . . . .	2,124.75
Rentals . . . . .	49,455.93
	<u>\$707,255.00</u>

Appropriations . . . . .	\$789,081.00
Deficiencies . . . . .	<u>.00</u>
	\$789,081.00

Disbursements . . . . .	\$707,255.00
Reverted . . . . .	18,139.22
Encumbered . . . . .	<u>63,686.78</u>
	\$789,081.00

The MCAD was the recipient of the following Federal grants:

### *Equal Employment Opportunity Commission*

Contract No. 70-25 . . . . .	\$46,747.00
Contract No. 70-25/5 . . . . .	92,082.81
Contract No. 70-45 . . . . .	55,105.00
Contract No. 71-17 . . . . .	62,662.12

*Department of Housing and Urban Development*

Contract No. H-1330 . . . . . \$7,500.00

*United States Civil Rights Commission*

Contract No. CR1306 . . . . . \$1,800.00

The MCAD entered into an Inter-agency Agreement with the Department of Community Affairs to perform and carry out all services enumerated in the following Federal grant:

*Department of Housing and Urban Development*

Contract CPA MA 01 1000 . . . . . \$80,000.00

What is Affirmative Action?

Affirmative Action is a demand that positive steps be taken to search out the victims of economic, educational and sex exploitation and bring them into the pathways of promise. Affirmative Action is an instrumentality through which private industry and public institutions are required to make amends for past negative actions against members of certain races or religions or females. These institutions are expected to open the doors of opportunity to everyone possessing the requisite skills and talents to perform at the required levels.

These institutions, private and public, have had more than 100 years to recognize and act on the quality of the individual, but many have failed to do so. In spite of this long delay in justice, there are those today who see in affirmative action programs an attack against the merit system. It can only be concluded that those who wish to maintain the status quo are motivated by economic self-interest, racism or sexism.

Suddenly, we hear cries of "preferential treatment" and "reverse discrimination". One can only conclude that insecurity and fear of competition are the motivating forces behind today's assaults against the long-time practice of "affirmative preference" for white males.

## AFFIRMATIVE ACTION DIVISION

The AFFIRMATIVE ACTION Division operated during 1972 with BURNARD MALLOY as Director.

During the early part of 1972, the Commission prepared a proposal to set forth new concepts to be utilized in structuring of affirmative action programs by both private and public employers throughout the Commonwealth. Representing the Commission in this effort was the Affirmative Action Division. In reporting the effectiveness of this proposal, the Director of Affirmative Action Division cited one particular firm which, when faced with the threat of a public hearing on a discrimination complaint, did, in fact, submit to the Commission an acceptable and workable affirmative action program — which had been structured by the company along those lines set forth in the proposal which had been given that company by the Director of the MCAD's Affirmative Action Division.

The Affirmative Action Division was constantly involved throughout 1972 with improving the system and procedures utilized by both public and private employers.

It was part of the Affirmative Action Division's effort to work with closing out back cases (i.e., those cases which had been pending with the agency for too long a time), in order to make the caseload more current and, thus, more effective. This effort resulted in the closing out of 851 back cases, which left more time for the team to concentrate on resolving those cases which come to the agency on a day-to-day basis.

The Commission's Affirmative Action Division has spent a great deal of time during the year 1972 working to eliminate the many problems existing at the Roxbury branch of the First National Stores. Records show that patterns and practices of unlawful discrimination did, in fact, exist at that facility; for, they started with 46 minority employees out of a total staff of 57. Gradually, without satisfactory reasons for terminations of nearly half of the original 46 minority employees,

approximately 23 minority employees were terminated by management of the First National Stores at the Roxbury facility. The MCAD's Affirmative Action Division sought to ascertain the reasons for this attrition among the minority employees there and met with a number of the minority employees to discuss the matter, with a view toward remedy. This meeting resulted in the employees holding a union meeting to air their grievances. After this union meeting, the management of First National Stores did honor the employees' request to settle the specific grievances, and they honored all except one of the grievances aired. This ended with management and employees at the store adapting themselves to better working relations with one another; however, there remain a number of problems to be dealt with at First National, and the Commission's Affirmative Action Division continues to work with this matter.

The Affirmative Action Division assisted the Commission's HUD program with housing complaints, and developed an affirmative action program for the various and different complaints which come to the Commission which was sufficiently general in terminology and content to be adaptable to all housing problem situations involving discriminatory practices — yet, specific and strong enough to deal with the root of all such problems.

One significant achievement of the Commission's Affirmative Action Division during 1972 was success in getting the Silin Manufacturing Company to develop and put in effect a workable and acceptable affirmative action program which serves as guidelines and policy for that company in all employment practices (i.e., recruitment, hiring, promotions, etc.).

The Director of Affirmative Action for the MCAD attended many meetings and seminars during 1972 which were held for the specific purpose of promoting closer compliance with the Commission's programs relating to proper affirmative action programs to be in effect at places of employment (both public and private).



## COMMUNITY RELATIONS DIVISION

The Commission's COMMUNITY RELATIONS Division operated during 1972 with JAMES R. DAVIS as Director and BARBARA R. CHANDLER as Assistant Director.

One of the primary functions of the Community Relations Division is correlation of the Commission's advisory councils. During 1972, there were eleven (11) councils operating, as follows:

- Berkshire Advisory Council
- Boston Area Advisory Council
- Cape Cod Advisory Council
- Fall River Advisory Council
- Fitchburg Advisory Council
- Merrimack Valley Advisory Council
- New Bedford Advisory Council
- North Shore Advisory Council
- South Shore Advisory Council
- Springfield Advisory Council
- Worcester Advisory Council.

Purpose of the advisory councils is to provide the Commission with advice in matters relating to a specific community and problems which might exist there, as well as matters relating to the internal operation of the Commission.

The South Shore Advisory Council held an affirmative action seminar for the purpose of enlightening employers operating in the South Shore relative to State and Federal guidelines which prohibit unlawful discrimination in employment. Staff persons from the Federal Equal Employment Opportunity Commission (EEOC) and the Mass. Commission Against Discrimination (MCAD) were guest speakers.

On the North Shore, the Merrimack Valley Advisory Council, with cooperation of the Greater Lawrence Chamber of Commerce and Western Electric Company in North Andover, hosted a seminar to discuss this Commonwealth's

new legislation dealing with sex discrimination and employment policies and practices as these relate to minority-group persons working with companies on the North Shore. This seminar hosted many of the Route 128 employers, employers from the North Shore, leaders from the Spanish, Black and White communities of the Merrimack Valley.

The Worcester Advisory Council, with support of officials from the Worcester Holy Cross College and labor unions of the area, developed a Worcester Plan for minority employment in the construction field. Purpose of such an effort was to fight unlawful discrimination in the construction industry in the Worcester area.

Several other councils participated in our survey of libraries in the specific areas, to ensure that those libraries make available to the public books which relate to the racial makeup of the community.

The Boston Advisory Council made a definite contribution toward furthering the effort to bring about greater minority-group representation in the construction industry. The Boston Area Advisory Council, supported by efforts of the Cape Cod, New Bedford and Springfield councils, participated in the A-95 surveys.

The Fall River Council hosted a meeting to enlighten the area citizenry as to the function of the Commission; the meeting was well attended.

The Commission utilized efforts of its Community Relations Division, in cooperation with other MCAD divisions, to develop and effect an affirmative action program for the National Park Service with intent to bring minority students into the employment structure of the National Park Service. At the start of the MCAD's effort, there were no Black employees with the Service; they have at this time ten (10) Black employees.

This Division represented the MCAD during times of civil stress on college campuses throughout the Commonwealth



and in the various communities. Effort was directed toward helping the college administration modify their hiring practices to conform with specified guidelines.

This Division hosted many workshops during 1972; one of the most effective was the, "A Day with the MCAD" which was held at Boston University and attended by human rights agencies operating throughout the New England area. Purpose of this workshop was to further enlighten the other agencies as to the progress and problems of the MCAD and to discuss our new legislation improving protection of the rights of the citizens of this Commonwealth in housing, sex, employment and education discriminatory practices.

The Community Relations staff continued throughout 1972 to fill speaking engagements and to participate in many seminars for purpose of informing the people of the State relative to the function of the Commission.



## COMPLIANCE DIVISION

The COMPLIANCE Division operated during 1972 with ROBERT F. MAHONEY as Director and ROGER MacLEOD as Assistant Director.

During 1972, the Commission joined forces with the Governor's office and office of the Secretary of Transportation and Construction to structure and effect a workable Equal Employment Policy for State construction contracts. The Commission's Compliance Division represented the agency in this effort. The policy effected and utilized in working with this program was unique and differs from other similar policies currently in effect in other areas of the country, as follows:

1. The policy eliminated use of "good faith" language and substituted an "impossibility to perform" clause, which shifts the burden of proof on the contractor to prove the impossibility to perform, according to contract specifications. Contract specifies numerical goals judged by man-hours worked, as opposed to the number of men actually on the job.

2. Community participation is provided for in contract through establishment of a liaison committee (ad hoc) comprised of community representatives and State government representatives. Function of this committee is to assist the contractor in reaching his equal employment opportunity goals and to assist in monitoring compliance with State compliance specifications.

3. In instances of non-compliance, new types of contract sanctions are now included in the contracts. Liquidated damages may be assessed against the contractor (up to \$1500 a week in some cases) as well as withholding of funds, etc.

Pursuant to Executive Order No. 74 (the Governor's Code of Fair Practices), the Commission conducted the second annual survey of all State agencies to determine to what extent minority-group citizens are utilized in the employment

structure of the Commonwealth. Executive Order No. 74 requires that all State agencies take steps to institute affirmative action procedures which ensure equality of opportunity in employment for all citizens of this State. The Order further requires that all State agencies and appointing authorities of the State initiate into policy and procedure affirmative action programs, which programs must be subject to review by the MCAD's Compliance Division.

The MCAD's 1971 survey revealed a total of 62,277 State employees. Of these, 3,437 are minorities and 27,522 are females.

The MCAD, through efforts of its Compliance Division, conducted pre-construction conferences with contractors having State contracts in excess of \$100,000. Results of these conferences varied — revealing less than desirable minority-group representation at some construction sites and merely acceptable representation at others. The University of Massachusetts construction, for example, shows a decline in minority-group employment to a low of about 10% of the 800 to 1,000 men employed at the site. Of this 10% minority representation at the University of Massachusetts construction site, a good portion consists of trainees.

The Commission also spent considerable time working with the Boston University Mental Health Center construction project, which currently has a minority-group employment representation of about 20% of the 80 individuals employed there. Although the Commission's efforts in this specific area have brought some small degree of progress, there is much to be done; and the MCAD considers new steps must be taken in order to effect compliance in State government construction contracting procedures. Toward this end, the Commission has sought to review existent contract language. Results of this review were submitted in the form of a special report to the Governor's office, and the Commission believes this report served some useful purpose toward bringing about change in contract language. A new Equal Employ-

ment Contract Clause and a position paper were issued by the Secretary of Transportation in May of 1972. This new clause provides for a) specific numerical goals on all projects in the specified impact area; b) elimination of the vague and difficult-to-enforce form of "good faith" terminology; c) participation by the affected community in a liaison committee which is involved in the equal employment opportunity activity; and other stringent sanctions which can be used in cases of non-compliance.

During 1972, the Commission's Compliance Division conducted the following contacts:

- 75 pre-construction conferences
- 90 post-construction conferences
- 94 on-site reviews
- 48 compliance reviews
- 56 compliance reviews: goods and services
- 215 special assignments.





## EDUCATION DIVISION

The Commission's EDUCATION Division operated during 1972 with JANET BRYANT as Director and WILLIAM NICKERSON as Assistant Director.

A part of the Commission's responsibility to enforce this Commonwealth's anti-discrimination laws is the commitment to enforce the Fair Educational Practices Act, Chapter 151C of the General Laws. This chapter dictates that the Commission must promote programs to ensure equal educational opportunities for all citizens of the Commonwealth. In this effort, the MCAD is represented by its Education Division.

Toward fulfillment of this responsibility, the MCAD's Education Division has been involved in a three-fold program which includes the following: enforcement of the anti-discrimination laws as they apply to educational opportunities; working with school departments and colleges to structure acceptable and workable educational programs for such institutions; and working with situations of tension in the Commonwealth's educational system which stem from unlawful discriminatory practices. This program has involved school administrators and staff, parents, students and various other individuals, as well as agencies concerned with quality education for all children of the State of Massachusetts. Through these efforts, legislation beneficial to education has been supported. The Commission's 1972 educational opportunities program included the following:

### *Educational opportunities for non-English speaking students.*

A bilingual education bill was enacted by the Commonwealth in November of 1971. Enactment of this bill made it mandatory that the school systems of the State provide equal educational opportunities for its non-English speaking children, as compared with those provided its English-speaking children. Utilizing the structure of the statewide Bilingual Coalition, which is comprised of more than 65 organizations

which played an important part in lobbying to get the legislation enacted, the MCAD played an active role during 1972 in ensuring that school districts complied with the legislation and provided meaningful education for Spanish, Italian, Greek, Chinese, Portuguese and other non-English speaking children. The MCAD serves on the Massachusetts Advisory Council on Bilingual Education, which takes action in cases of noncompliance to bilingual legislation matters. The Commission also serves on the Board of Directors of the Hispanic Office of Planning and Evaluation (HOPE), which agency offers unique services in research to pinpoint those actual needs existent in the Spanish community.

*Cooperative efforts with the Commission's Affirmative Action Division to effect acceptable and workable affirmative action programs in education.*

Under provisions of Executive Order No. 74 (the Governor's Code of Fair Practices), the Commission has worked to develop affirmative action programs in public schools — in an effort to alleviate existing patterns and practices of unlawful discrimination. The Education Division and the Affirmative Action Division of the Commission have jointly sponsored many programs to ensure the success of these programs. Such programs included recruitment, admissions and support services within educational institutions for minority students as well as employment practices (recruitment, hiring, promotions, etc.) of professional staff persons. The Education Division represented the Commission in working with various school departments and colleges throughout the Commonwealth to assist in formulating and implementing suitable programs. Included in such effort was the Commission's review of affirmative action programs which had been submitted by colleges which wished to request ethnic and racial data on college entrance examination applications (in accordance with "Opinion and Ruling" rendered by the Commission). In this ongoing program, plans are currently being monitored at Springfield College, Mount Holyoke College, Curry College and the Massachusetts Institute of Technology.

### *Training sessions in inter-group relations and discrimination.*

Awareness that the special needs of minority students are not being met in the educational institutions throughout the Commonwealth warranted holding many training sessions to discuss these needs. Some of the problems discussed included career guidance, special problems encountered when a minority student enters the world of higher education and special services available to the disadvantaged and minority student. A conference was held in June at Boston University to discuss some of those specific problems which minority students encounter when they enter institutions of higher learning. The 160 conferees represented 34 colleges in the Boston area and all the guidance supervisors in the Boston school department. A meeting was held in May for superintendents, principals and guidance administrators in the Cape Cod area; this meeting was held at the Cape Cod Community College. A workshop was held in April for members of the guidance division of the New Bedford school department. Discussions centered around guidance of minority students and their specific needs. Many other conferences were held for purpose of discussing problems existent within the schools throughout the Commonwealth, with a view toward effecting remedies for these problems which are adversely affecting the education of our minority children.

### *Recruitment of minority teachers.*

A guide to proper recruitment procedures was prepared for use by schools, and meetings were held to discuss the hiring of more minority teachers for the schools throughout the Commonwealth.

### *Investigations.*

The Education Division cooperated with the Commission's Field Operations Division on those complaints alleging



unlawful discrimination in education, which were received by the MCAD's Field Operations Division for investigation and processing. It is significant that the Commission, after fifteen days of public hearing on the "Elite Schools" case, announced on 18 May 1972 a plan for altering the admissions practices in the Boston Latin School, the Girls Latin School and the Boston Technical High School — to increase the admission and enrollment of minority students. This plan is to be effected in the school system with beginning of the 1973-4 school year for a period of three years and will be monitored by the MCAD and will be subject to review and re-assessment during the following three-year period.

### *Tension situations at the various schools.*

In response to complaints from students, community agencies and teachers relative to tension situations and potential problems stemming from alleged discriminatory practices in schools throughout the State, the MCAD held several meetings in the various communities in order to attempt a resolution to these problems. These situations involved both colleges and school departments.

### *MCAD education task forces.*

Education task forces have been set up in the advisory council areas. These committees have been working with problems on a local level and have been instrumental in bringing local school problems to the attention of the Commission. The New Bedford task force helped initiate a program for guidance counselors in the New Bedford school department, and the Boston and Cape Cod councils sponsored workshops which dealt directly with minority students in higher education.



*Future plans.*

The Commission's Education Division is now formulating programs for 1973 which include a continuation of effort in both the investigative and affirmative action aspects of the division — in an effort to ensure equal opportunities in education for all citizens of this Commonwealth.



# **HOUSING AND URBAN DEVELOPMENT PROGRAM REPORT**

**Norman W. Huggins, Director**

In January of 1972, the Commission Against Discrimination continued its operation of a grant that had been awarded by the Department of Housing and Urban Development. This grant was designed to develop the MCAD's attack on systemic discrimination in the area of housing.

During the previous year, the staff had developed a case using new ideas and techniques in approaching discriminatory practices of realtors in both the urban and suburban housing markets. In the urban area of Boston, the Commission initiated a complaint against one of the largest realtors. As a result, a conference was held between the Commission and the respondent which resulted in an agreement that the respondent would engage in an affirmative fair housing marketing plan for the rental of his apartment units.

In the suburban area of Boston, the HUD Grant staff developed a case by using testing techniques as well as the usual investigative techniques. One of the many cases that were developed in this manner resulted in the removal of the licenses of three real estate agents in the South Shore area.

The development of pattern and practice investigation for the purpose of eliminating the systemic forms of discrimination has now become a part of the Commission's day-to-day operation.

In July of 1972, the grant program had been awarded a new grant to continue its attack on systemic discrimination. During 1972, the grant staff worked closely with the Department of Community Affairs (D.C.A.) in two areas: (1) In the area of public housing, the grant staff drafted and proposed to D.C.A. certain changes to be made to the tenant selection policies of State aided housing projects. Members of the staff are continuing to negotiate with D.C.A. to insure the implementation of these changes; (2) Grant staff personnel have

been reviewing the Affirmative Marketing and Hiring plans of applicants for status as Redevelopment Corporations under Chapter 121A of the Massachusetts General Laws. These applications are submitted to D.C.A. by the developers.

Staff personnel initiated a working relationship with the Massachusetts Housing Finance Agency (MHFA). Pursuant to Executive Order 74, staff personnel reviewed and commented on the Affirmative Marketing and Hiring plans of developers and contractors on MHFA financed housing projects.

The staff also undertook a review of all existing MHFA financed housing in the state to determine to what extent this housing has been opened to minorities. A survey conducted revealed that MHFA financial housing has made virtually no headway in opening housing to minorities. The racial makeup of MHFA financed housing conforms to that of the area in which it is located. If the area is virtually all white or all black, so, too, is the MHFA housing project in that area. Good examples of this are the Unquity House Development in Milton and the Bethany Homes Development in Haverhill which are all white, and the Fayston Street and Interval Street Developments in Roxbury which are all black. Well-integrated MHFA housing seems to exist only in well-integrated areas.

The staff began looking into the three areas of banking, credit bureaus and the Multiple Listing Service in an attempt to discover whether the practices existing within these institutions are designed to or have the effect of discriminating against minorities.

## LEGAL DIVISION

The Commission's LEGAL Division is headed by its General Counsel.

Year 1972 saw a tremendous increase in the size of the Commission's Legal Division; a growth in staff from 4 lawyers to 10 during this one-year period. This figure of 10 staff lawyers is exclusive of the 4 Commissioners who are also lawyers. In all, the MCAD employed, at the end of 1972, a total of 14 lawyers — inclusive of the 4 Commissioners who are lawyers. The 14 lawyers fall into the following ethnic breakdown:

Staff:	8 males	2 females	7 whites	3 blacks
Commission				
body:	<u>3</u> males	<u>1</u> female	<u>3</u> Whites	<u>1</u> Black
	11 males	3 females	10 Whites	4 Blacks

This growth was made possible by financial aid received from the Federal government through special grants (i.e., EEOC and HUD programs). In addition, the Commission's Legal Division has been complemented by assistance of 5 legal interns from various law schools in the area.

Under the Commission's reorganization plan, effected during 1972, certain senior staff attorneys were designated to serve as unit supervisors, as special units were established for handling of certain complaints alleging unlawful discrimination which are filed with the agency. With the increase in size of the Legal Division, a larger number of special projects have been initiated to aid the work of the Commission. Among these projects have been a) assistance to the special backlog task force, which is an ad hoc committee whose efforts were directed specifically toward working with old cases; b) deferral case projects; and c) support functions to the senior staff attorneys.



The Commission, as a member of the International Association of Human Rights Agencies, contributed 3 of the first 6 technical comments published and distributed nationally by the organization. Also, the agency's increased legal staff made it possible for the MCAD to become a part of more State and Federal court actions pending on vital civil rights issues.

## RESEARCH DIVISION

Dorothy T. Parrish, Research Director  
Della A. Gilson, Assistant Director

During 1972, the Commission's Research Division continued to supply research and statistical data to fellow Commission staff, public and private agencies, and individual citizens as their requests for data of a discriminatory nature were made known. This is one of the main functions of the Research Division. We continued to manage the Research Resource-Bank Library.

The Research Division worked with the Legal Counsel, Leonard DePaola, on updating the Commission's Compilation of the Laws. Supplied extensive data to the Equal Employment Opportunity Grants. Worked jointly with the Housing Urban Development Grant by supplying data on mortgage insurance, and demographic data for Class Action Cases.

The Research Division worked on the Committee for Reorganizing the Commission. Questionnaires were sent to other State, Federal, and municipal agencies outside of Massachusetts with similar jurisdiction pertaining to their structure and organization. A study was also made comparing Massachusetts Commission Against Discrimination with other Massachusetts State agencies with similar staff size, jurisdiction, and budget.

The Director of Research Division was assigned by the Commission to work with the Housing Unit on the A-95 Review. MCAD would evaluate the Civil Rights Component for State Clearinghouse of any person, agency, or organization submitting a proposal to U.S. H.U.D. for monetary capital to build housing in the Commonwealth. Because we only had a very limited amount of time to return the report back to the Clearinghouse, it meant that we worked on these proposals on a daily basis. Many proposals were not concurred and had to be resubmitted to us with an Affirmative marketing

Plan for building and hiring.

The Director of the Research Division spoke to several classes in political science at Wellesley College. Several students became interested in the work at the Commission and became interns in the Research Division.

The Director also worked with Dr. Schecter, Chairman of Political Science Division at Wellesley College, who received a Federal Grant to find out whether there are discriminatory patterns by realtors against minorities in three major urban-suburban areas in three areas of the country.

The Division compiled data on sex discrimination cases, hospitals, airlines, and many other firms that had many individual complaints filed against them to determine if there was a case for pattern and practice of discrimination.

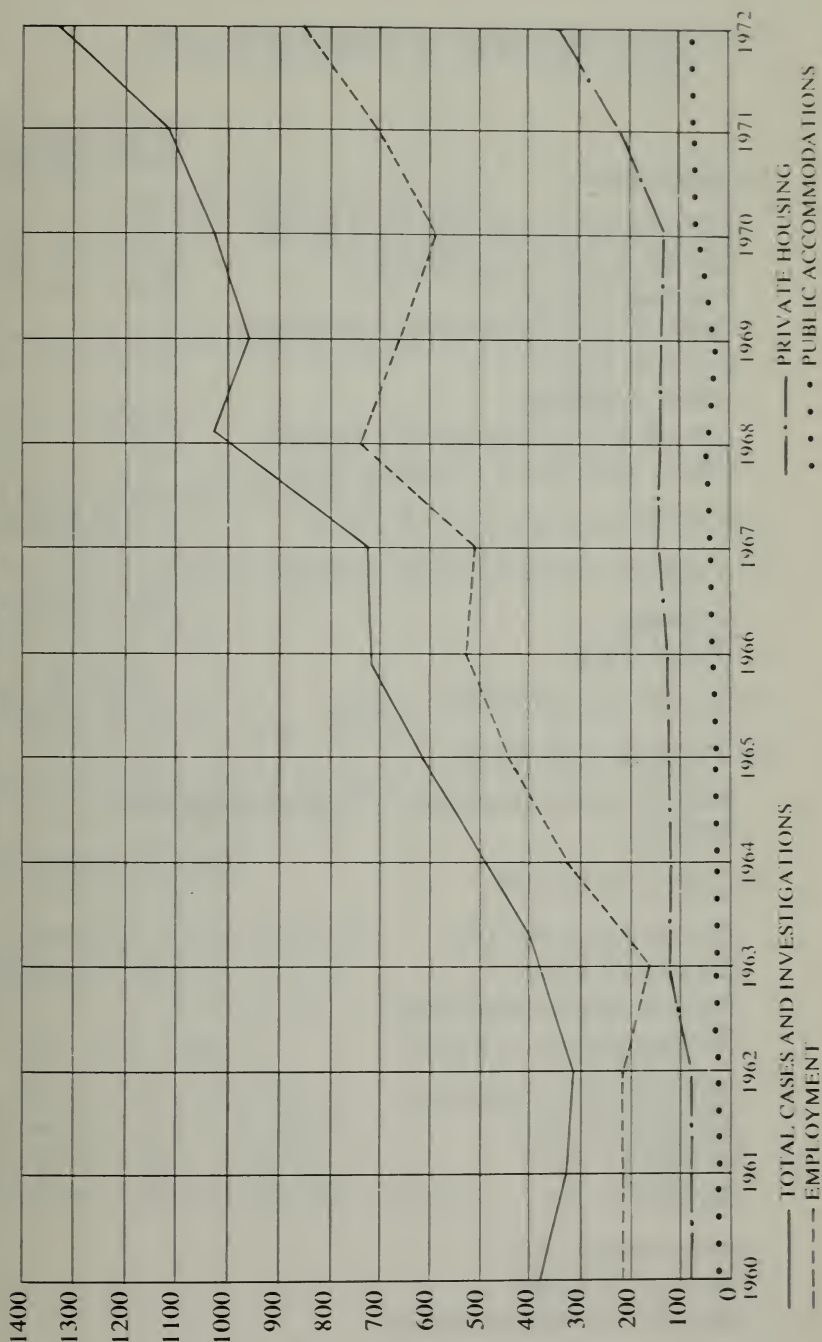
The Research Division continued to tabulate and analyze all the data compiled by the Compliance Division on minorities and females employed by the Commonwealth, in compliance with Executive Order No. 74.

Because the Court Decision (i.e., *Griggs vs. Duke Power & Co.*) has upheld that valid in-depth statistics are facts and that they can be used by Commissions, and Courts in reaching conclusions of Law, the Research Division has become more involved in case processing. The Assistant Director, Miss Della Gilson, spent a major amount of time compiling statistical data for a College Class Action based on sex discrimination. Those public hearings will be held sometime in early 1973. Statistical data was also based in class action cases for Commission initiated housing cases.

A Legislative Scoreboard was also maintained and is attached to this summary. An analysis and compilation of cases that received monetary awards was also compiled by the Research Division. This summary is also attached.

The Research Director and Assistant spoke at luncheons, schools, and different organizational meetings on the function of M.C.A.D.

RESEARCH DIVISION  
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION  
CASES FILED 1960-1972



## REMEDY AWARDED IN 1972

	NUMBER OF CASES
<i>IN HOUSING:</i>	
Affirmative Action Programs Set-up	4
Got Rental Accommodations	18
Purchased House	3
Offered Accommodations But Refused	8
Eviction Stayed	4
Written Apology	1
Agreed Not to Further Discriminate	4
Other - Got Rid of Nuisance Dog	1
<i>FINANCIAL AWARDS</i> - 8 Cases	\$1,921.61
<i>IN PUBLIC ACCOMMODATIONS:</i>	
Apology	4
Waiter Fired	3
<i>FINANCIAL AWARDS</i> - 1 Case	\$500
<i>IN PUBLIC HOUSING:</i>	
Make Housing Available to Spanish-Speaking Residents	1
<i>IN EMPLOYMENT:</i>	
<i>Got Hired on the Job</i>	18
Because of Color	13
Because of National Origin	4
Because of Sex	1
<i>Offered Job But Refused</i>	15
Because of Color	3
Because of Age	1
Because of Sex	11
<i>Reinstated in Job</i>	14
Because of Color	8
Because of National Origin	2



# NUMBER OF CASES

Because of Age	1
Because of Sex	3
<i>Corrected Violative Job Application:</i>	6
Because of Color	2
Because of Age	3
Because of Sex	1
<i>Corrected Violative Advertisement:</i>	
Because of Sex	5
<i>Policy Change:</i>	
Because of Sex	2
<i>Granted Maternity Benefits &amp; Pregnancy Leave</i>	4
<i>Promotion Granted:</i>	
Because of Sex	2
Because of Color	1
<i>Pay Increase:</i>	2
Because of Color	1
Because of 15¢ an Hour - Color	1
<i>Received Entry Into A Union:</i>	
Because of National Origin	1
<i>Harassment Ceased:</i>	
Because of Color	3
<i>Affirmative Action Programs:</i>	6
Because of Color	4
Because of National Origin	2
<i>Financial Awards:*</i>	
	<b>TOTAL — \$100,411.19</b>
Because of Sex - 6 Cases	40,673.76
Because of Color - 8 Cases	14,418.72
Because of Age - 2 Cases	1,429.00
Because of National Origin - 3 Cases	43,889.71

*Paragraph #4*

Financial Awards - 1

100.00

Early Retirement Requirement Dropped - 1 Case  
Admitted to School - 2 Cases

\*Two Employment Cases Received Substantial Financial Awards in 1972. These Are Included in the Above Tabulations. One Case Had \$41,707.71 Awarded and the Other, \$33,000 (Over 2 Years).

**MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION  
Research Division  
Legislation Passed by the 1972 General Court  
Affecting the MCAD**

ACT	DATE APPROVED	BRIEF SUMMARY
Chap. 101	3/15/72	An act eliminating discrimination relative to sex and age in vocational training institutions. (Chap. 151C: Sec. 1, <del>¶</del> b&d; sec. 2A.; sec. 3, <del>¶</del> a&b)
Chap. 175	4/13/72	An act further regulating discrimination by certain educational institutions. (sex and age discrimination in admission to graduate programs) (Chap. 151C: sec. 2, <del>¶</del> d)
Chap. 185	4/20/72	An act prohibiting discrimination against blind persons in the sale or leasing of residential real property. (Chap. 151B: sec. 4, ss6)
Chap. 212	4/27/72	An act regulating an investigating commissioner's powers and duties with respect to complaints of housing discrimination filed with the MCAD against non-resident respondents. (Chap. 151B: sec. 5, <del>¶</del> 3)
Chap. 369	6/1/72	An act prohibiting discrimination in admission of blind students to state college and univ. (Chap. 151C: sec. 2, <del>¶</del> 1)
Chap. 428	6/14/72	An act prohibiting unlawful discrimination by employers for failure of employees or prospective employees to furnish information of certain arrests. (Chap. 151B: sec. 4, ss9)
Chap. 542	6/29/72	An act providing that retail stores shall not discriminate because of age in

extending credit or charge account privileges to certain customers.

(Chap. 151B: sec. 4, ss12)

Chap. 786                      7/19/72  
(Emergency Law)

An act prohibiting certain illegal practices commonly known as block-busting, relative to the sale, purchase or rental of real estate in certain residential neighborhoods.

(Chap. 151B: sec. 3, ss 13, sec. 4, ss13)

Chap. 790                      7/19/72

An act requiring employers to grant maternity leave to certain employees.

(Chap. 151B: sec. 4, ss 11a; Chap. 149)

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## Legislation Submitted by the MCAD 1972 General Court

BILL	BRIEF SUMMARY	COMMITTEE	REPORT
H. 79	Act defining the investigating Commissioner's function with respect to complaints of housing discrimination filed with the MCAD against nonresident respondents.	Urban Affairs	Signed April 27. Chap. 212 of the Acts of 1972.
H. 80	Act defining the investigative powers of the MCAD and authorizing the Commission to issue interrogatories and to reproduce evidence in connection with complaints of employment and housing discrimination.	Judiciary	Chap. 28* Resolves of 1972 signed May 25, 1972
H. 81	Act defining the investigative powers of the MCAD and authorizing the Commission to issue interrogatories and to reproduce evidence in connection with complaints of education discrimination.	Judiciary	Chap. 28* Resolves of 1972 signed May 25, 1972
H. 82	Act relative to making certain changes in the proceedings in cases of alleged unfair educational practices by the MCAD.	Judiciary	Chap. 28* Resolves of 1972 signed May 25, 1972

\*Chap. 28 of the Resolves of 1972 provides for an investigation by the Judicial Council relative to making certain changes in the proceedings in cases of alleged unfair educational, housing and employment practices by the MCAD, and further regulating the powers of said Commission.

Compiled:  
Research Division  
Dorothy T. Parrish, Director  
Della A. Gilson, Assistant Director





## SEX AND AGE DIVISION

The Commission's SEX AND AGE Division operated during 1972 with LOUISE H. ECKERT serving as Director.

One of the division's major accomplishments during 1972 would definitely relate to inroads made in the area of equal EMPLOYMENT opportunities for females insofar as newspaper advertising is concerned. More than 150 newspapers throughout the Commonwealth were notified of the newly-adopted guidelines concerning sex-segregated advertising columns, which guidelines specified that the *maintenance by newspapers and other publishers of help-wanted classified columns segregated by sex is unlawful*. Approximately 30% of the 150 newspapers contacted discontinued the sex-segregated system of identifying their classified job listings without further request from the MCAD. Another 40% voluntarily complied after conferences were held between the newspaper officials and the Commission's Sex and Age Division representatives. Still other newspapers had voluntarily made the changes prior to the Commonwealth's adoption of the new guidelines — as result of contacts made by the MCAD during the previous year. The MCAD is currently investigating more than 25 newspapers, in an effort to bring their policy and practices in line with the new guidelines, and complaints have been initiated by the Commission against two major daily newspapers for their failure to comply with these guidelines.

In a few instances, display advertising (although listed under a "general" title) showed pictures of only men in professional or sales offerings, while women were pictured in only clerical offerings. When these discrepancies were detected, the MCAD contacted the offenders and requested immediate correction. It is the Commission's responsibility to ensure that no citizen of this State is deprived of employment because of sex or age, as well as race, color, religion, national origin, ancestry, military status, etc. (Persons between ages 40 and 65 are covered under this statute.)

Another step toward elimination of sex and/or age discrimination in employment has been the re-examination by the MCAD's Sex and Age Division of 107 "exemptions" granted by the Commission since 1966 relative to the State's political sub-division departments. The law provides for this agency to give its opinion on questions submitted by any employer . . . concerning whether any existing or proposed requirement for employment . . . constitutes a bona fide occupational qualification (BFOQ). This division has noted that the majority of these "exemptions" were granted because one of the requirements of the job involved the carrying or lifting of objects weighing in excess of 40 pounds or working more than 48 hours within one given week. These requirements automatically eliminated women from consideration, in light of a so-called State "protective" law (Chapter 149, Section 53A of the General Laws of the Commonwealth). Although the statute still remains on the books, it is virtually unenforceable in light of various opinions rendered by the Massachusetts Attorney General and guidelines issued by the Equal Employment Opportunity Commission, under Title VII of the Civil Rights Act of 1964.

This Commission subsequently revoked the exemptions previously granted when justification for restricting the job was based upon heavy lifting or the number of hours to be worked. This action had the initial remedy of opening up a variety of job opportunities in public employment to members of both sexes by elimination of the Civil Service "separate list" system.

With adoption of one of the MCAD's revised Guidelines and Regulations (December 1971) making it unlawful for an employer to deny a female employee a leave for reason of pregnancy, year 1972 began with much interest evolving on the part of both public and private employers relative to this issue. By mid-1972, legislation was enacted requiring employers to grant maternity leave to certain employees. This law became effective in October 1972. As result of this regulation, women are now entitled, in most instances, to a leave for

reason of pregnancy and also of being assured job reinstatement afterwards.

In the area of PUBLIC ACCOMMODATIONS, the Commission's Sex and Age Division was active in bringing about amendment of an existing statute prohibiting discrimination in so-called "places of public accommodation" to include "sex" discrimination. This particular piece of legislation has far-reaching coverage with the broad definition of what constitutes a place of public accommodation (i.e., any place, whether licensed or unlicensed, which is "open to and accepts or solicits the patronage of the general public").

The Sex and Age Division continued its practice of filling innumerable public speaking engagements for purpose of enlightening the people of the State (especially the female segment of our society and those between ages 40 and 65) as to the rights of all the people of our Commonwealth.





